

Town of Wellesley General Bylaws as  
Revised Under Article 39

CHANGES ACCEPTED – DRAFT

As of 2/28/2020

Annual Town Meeting - 2020

**TOWN OF WELLESLEY  
BYLAWS**

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As amended through STM MAY 2019

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## **ARTICLE 1. GENERAL DEFINITIONS AND RULES OF INTERPRETATION**

1.1. Scope. The provisions of this article apply to all of these bylaws unless a definition or other rule of interpretation is specifically provided or clearly implied.

1.2. Definitions. For the purposes of these bylaws:

- a. "Board" means a multiple-member board, commission, committee or sub-committee however created, elected, appointed or otherwise constituted. (*Amended 2011.*)
- b. "Officer" means the senior departmental staff employee appointed by a board named in these bylaws. A person employed primarily for secretarial duties is not an "officer". The Treasurer and Collector of Taxes, Town Counsel, the Inspectors named in Article 23 and the Sealer of Weights and Measures are also officers.
- c. "Official" means the Moderator and the Town Clerk.
- d. "Resident" means a person who occupies an established place of abode in the Town as their principal residence with no present intention of definite and early removal.

1.3. Number. The singular and plural forms of words shall be deemed interchangeable wherever appropriate.

1.4. Statutory References. All references to the General Laws contained in these bylaws are references to the General Laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to the chapters and sections cited or to the corresponding chapters and sections under any rearrangement of the General Laws enacted subsequent to the adoption of these bylaws, as well as any new statutory provisions directly related to the chapters and sections cited.

1.5. Conflict with Statutes. If any provision of these bylaws and a statute address the same issue, a reasonable effort shall be made to interpret the two provisions harmoniously. If this is not practicable, the statute shall govern and the bylaw shall be followed as closely as is practicable.

## **ARTICLE 2. OPEN MEETINGS**

(*Revised and Amended 2011.*)

2.1 Intent of Articles 2, 2A and 3. This Article, and the following Articles 2A and 3, are intended to fairly summarize the Open Meeting Law for the Town's convenience, but reviewing the law itself, G.L. c. 30A, Sections 18-25, and asking the advice of Town Counsel on any particular point, are encouraged. For purposes of these Articles, "public body" shall have the meaning provided in G.L. c.30A, §18.

2.2 Meetings to be open to the public. Except for meetings duly convened in executive session, all meetings of a public body shall be open to the public in accordance with the Open Meeting Law.

2.3 Notice. Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

2.4 Notice to be filed and posted. Notice shall be filed with the Town Clerk and posted on the Town's website. Meeting notices shall also be made available in or around the Town Clerk's office so that members of the public may view the notices during normal business hours. (*Amended ATM 2018.*)

2.5 (Reserved for Future Provisions). (*Amended ATM 2018.*)

2.6 Recording the Meeting. After notifying the chair, any person may make a video or audio recording of a meeting or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings.

2.7 Addressing the Meeting. No person shall address a meeting without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting. If,

after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

2.8 Public Body members to acknowledge receipt of a copy of the Open Meeting Law. Within 2 weeks of qualification for office, all persons serving on a board shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated thereunder and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application. Unless otherwise directed or approved by the attorney general, the town clerk shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

## **ARTICLE 2A. MEETINGS IN EXECUTIVE SESSION**

*(New Section 2011.)*

2A.1 The purposes for which an Executive Session may be convened. A public body may meet in executive session only for the following purposes:

- (1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the board at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:
  - i. to be present at such executive session during deliberations which involve that individual;
  - ii. to have counsel or a representative of their own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
  - iii. to speak on their own behalf; and
  - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that they may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.
- (2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
- (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
- (4) To discuss the deployment of security personnel or devices, or strategies with respect thereto;
- (5) To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
- (6) To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the board;
- (7) To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
- (8) To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining

qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

- (9) To meet or confer with a duly qualified mediator, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
  - (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
  - ii. no action shall be taken by any board with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session;
- (10) To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by the municipal light plant, provided disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

**2A.2 Procedure for going into and coming out of Executive Session.** A public body may meet in executive session for one or more of the purposes enumerated above provided that:

- (1) the public body has first convened in an open session;
- (2) a majority of members of the public body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
- (3) before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- (4) the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
- (5) accurate records of the executive session shall be maintained as required.

### **ARTICLE 3. MINUTES**

*(Amended 2011.)*

**3.1 Minutes to be kept; content of minutes.** A board shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

**3.2 Secret ballot forbidden; votes at executive session to be by roll call.** No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

**3.3 Minutes to be created, approved in a timely manner and posted on the Town website.** Minutes of all open sessions shall be created, approved and posted on the Town website in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within ten days.

**3.4 Documents and other things to be part of the official records.** Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.

**3.5 Minutes as public records.** The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on their professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about

employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

3.6 Minutes of Executive Session. The minutes of any duly convened executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety as long as publication may defeat the lawful purposes of the executive session, but no longer, and, provided, however, that the executive session was held in compliance with the law.

3.7 Declassifying Executive Session Minutes. When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or one or more of the applicable exemptions to the Public Records Law, G.L. c.4, §7, apply to withhold these records, or any portion thereof, from disclosure.

3.8 For purposes of this Article, if an executive session is held then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or one or more of the applicable exemptions to the Public Records Law, G.L. c.4, §7, apply to withhold these records, or any portion thereof, from disclosure.

3.9 Executive session minutes to be reviewed at reasonable intervals and at least annually:

- a. The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if continued non-disclosure is warranted. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.
- b. Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the public body shall respond to the request within ten days, following receipt and shall release any such minutes not covered by an exemption, provided, however, that if the public body has not performed a review pursuant to the above paragraph, the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the public body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

#### **ARTICLE 4. ANNUAL REPORTS**

*(Amended to delete section 4.6, ATM 2018.)*

4.1. Annual Reports Required. The following shall prepare and submit annual reports:

- a. each board,
- b. Chief of Police,
- c. Chief Engineer of the Fire Department,
- d. Inspectors listed in Article 23,
- e. Sealer of Weights and Measures,
- f. Department of Financial Services,
- g. Town Clerk, and
- h. Town Counsel.

4.2. Contents. An annual report shall include a summary statement of receipts and disbursements for the preceding fiscal year, a statement of the significant activities of the board, officer or official during the preceding fiscal year, and a discussion of any significant issues which the Town may face within the next several years within the jurisdiction of the board, officer or official.

4.3. Filing. All annual reports, except those portions which require the completion of the annual audit, shall be filed with the Selectmen no later than September 1. Those portions of reports which require the completion of

the annual audit shall be filed with the Selectmen as soon after the receipt of the audit as possible and no later than a date determined by the Selectmen.

4.4. Annual Town Report. The Selectmen shall prepare an Annual Town Report and shall have said report printed in such quantities as in their opinion shall satisfy the usual and customary demand for such report, which will be made available to the public at the Town Hall. The report shall be available not later than the third Monday in December of each year. The Annual Report shall contain the annual reports for the last completed fiscal year and other matters required by law. The Selectmen may add such additional information as they find advisable to make the Annual Town Report an accurate and useful report to the residents of the Town.

4.5. Annual Reports of Subcommittees. Subcommittees, study committees, and other similar committees may file their annual reports with the board or body to which they are responsible no later than August 15. A board receiving such a report and the Selectmen may agree to include such a report in the Annual Town Report.

## **ARTICLE 5. POLICIES AND PROCEDURES**

5.1. Policies and Procedures. "Policies and procedures" include only policies and procedures regarding services provided to the public.

5.2. Copies of Policies and Procedures. Each Board, the Department of Financial Services, the Town Clerk, and the persons named in Article 23 shall make available electronic copies of any of their written policies and procedures to the public upon request. To the extent permitted by the General Laws, reasonable fees may be charged for the cost of reproduction if paper copies are requested. *(Amended ATM 2018.)*

5.3. Public Participation. Each board shall establish a written procedure which allows members of the public to comment orally at a public meeting or a public hearing of the board on policies (and), procedures and agenda items being discussed or considered for adoption, amendment, or repeal by the board.

5.4. Books of Policies and Procedures. Each Board, the Department of Financial Services, the Town Clerk, and the persons named in Article 23 are encouraged to put their policies and procedures into written form, to keep their policies and procedures in a usefully organized and up-to-date book, and to make the book available to the public during regular business hours. Boards which do not have offices shall keep their books of policies and procedures in the office of the Town Clerk.

5.5. Naming of Public Assets. It is the policy of the Town of Wellesley to reserve the naming or renaming of public assets for circumstances that will best serve the interests of the town and ensure a worthy and enduring legacy for the town's physical spaces. *(Added ATM 2008.)*

- a. No Town assets shall be named or renamed except in accordance with this bylaw.
- b. Assets that are considered to be major physical assets of the Town of Wellesley, such as buildings, recreational facilities, parks, water bodies, and conservation land shall be named only after the board with jurisdiction over the asset shall approve a name; and Town Meeting, by majority vote, shall concur in such naming.
- c. All other Town assets that are portions of a larger whole, such as: interior spaces of buildings; features within parks, conservation land, and recreational areas; driveways or parking lots; or furniture or other small fixtures of any description shall be named by the Board having jurisdiction over the asset pursuant to a policy adopted under section (g) herein.
- d. The naming of town assets shall be considered with the following categories in mind:
  - i. Historic Events, People, and Places. The Town may preserve and honor the history of the Town, State, or Country; prominent historical figures; and local landmarks, neighborhoods, or prominent geographical locations.
  - ii. Outstanding Individuals. The Town may acknowledge individuals who have contributed in a significant way to the public life and well-being of the Town.

Major Gifts. The Town may acknowledge certain major gifts (as defined in each Board's policy) to the Town by individuals, organizations or corporations by naming a public asset in connection with such a gift.

- e. The board with jurisdiction over an asset to be named shall consider whether a naming agreement, or other documentation, is appropriate in each situation.
- f. In situations where no naming agreement or documentation exists, names shall not be changed without consideration of the historical significance of the name, impact on the individual or organization previously named and the costs associated with such renaming.
- g. No board shall name any public asset unless the board shall have adopted a naming policy. All policies on the naming of public assets shall be consistent with the intent of this bylaw. Any such policy or amendment thereto shall be adopted only after at least one public hearing. All such policies shall be on file with the Town Clerk and posted on the town website.

5.6. Acceptance of Gifts. (New Section ATM 2009.) The purpose of this section is to authorize the acceptance of Gifts for any public purpose, and to specify policies and procedures for doing so.

- a. Town Boards authorized to accept Gifts (money, tangible property, real estate) It is the Town's policy to respect the authority in Town boards and committees to accept gifts as provided by statute. This includes, but may not necessarily be limited to the following Town boards which are authorized to accept gifts of money, tangible property and/or real estate to the extent hereinafter set forth.
  - i. The Board of Selectmen is authorized to accept gifts of money and tangible property on behalf of the Town (G.L. c.44 §§53A, 53A1/2).
  - ii. The School Committee is authorized to accept gifts of money for educational purposes. (G.L. c. 44, §53A, and c.71, Section 37A), and of tangible property as a matter of town policy.
  - iii. The Board of Trustees of the Wellesley Free Library is authorized to accept gifts of money for library purposes (G.L. c.78 § 7, 11) and for purposes of library construction or renovations (G.L. c.78 §19K), and of tangible property as a matter of town policy.
  - iv. The Natural Resources Commission is authorized to accept gifts of money and tangible property for conservation and parkland purposes, subject to the approval of the Board of Selectmen (G.L. c.40, §8C)
  - v. Gifts of real estate, or interests in real estate, may only be accepted by Town Meeting on the recommendation of the Board of Selectmen.
- b. Protocol for accepting gifts.
  - i. Any town board accepting, recommending the acceptance of, or declining a gift shall adopt a written policy consistent with this bylaw. Any such policy or amendment thereto shall be adopted only after at least one public hearing. All such policies shall be on file with the Town Clerk and posted on the Town website.
  - ii. All Town boards and officers not specifically authorized hereinabove to accept a gift on behalf of the Town shall refer the proffered gift to the Board of Selectmen if it recommends that the gift be accepted. (The Town recognizes that G.L. c.44, §53A provides that a Town officer or department may accept a gift of money, but the statute also stipulates any expenditure of such a gift must be approved by the Board of Selectmen. Therefore, it is Town policy to require the acceptance be voted by the Board of Selectmen at the outset of the gift). Any Town board not hereinabove provided for, believing it is authorized to accept gifts, may ask the advice of the Board of Selectmen and/or Town Counsel.
  - iii. The donee board shall have the discretion to approve or decline any proposed gift, whether restricted or not, subject to the provisions of this section. In the event a board declines a gift that decision shall be dispositive of the matter. (Amended ATM 2018.)
  - iv. In considering a gift, boards should make the following determinations:

1. Whether the gift is appropriate to the mission and needs of the Town and the particular board;
2. Whether the gift is unrestricted or, if restricted, given in reasonably broad and flexible terms to maximize usefulness;
3. Whether the gift is irrevocable;
4. Whether the gift imposes undue financial burden on the Town;
5. Whether the long-term impacts of the gift, particularly where there could be significant future or ongoing operations and maintenance or capital costs associated with the gift have been accounted for;
6. Whether the terms of the gift permit the Town to apply the gift to related purposes in the event the designated purpose is fully funded or is no longer practical, necessary or able to be performed.

In the event a board has reason to believe a gift could cause or result in an appearance of impropriety, the board shall consult with the Town Counsel prior to accepting the gift.

Restricted gifts shall be assigned to a project or existing account consistent with the donor's desired use, as long as such restriction(s) do not conflict with Town by-laws or state or federal law, in which case the Town shall ask that the restriction(s) be removed or decline the gift.

- c. Grants. Any Town department is authorized to apply for grants, and to accept grant funds, provided the board or committee of such Town department has authorized the filing of grant application, or in the case of no application having been required, has authorized acceptance of the grant funds.
- d. Accounting. All funds received by any board shall be deposited with the Treasurer.

The Town of Wellesley Financial Services Department is responsible for providing for the financial administration of any gift to the town. If necessary, Financial Services shall track the proposed use of any such gift and shall maintain separate records of accounts showing receipts and disbursements.

Interest, if any, generated by a gift shall accrue to the Town's general fund unless expressly provided otherwise by the terms of the gift.

The donee board shall be responsible for acknowledgement of gifts and shall provide receipts as needed for IRS purposes.

- e. Reporting. All donee boards shall prepare an annual report of such gifts including amounts, purposes and such other details as required by the Finance Director. These reports shall include both restricted and unrestricted funds. Reports on gifts shall be filed with the Finance Director, and included in the Town's Annual Report. The report shall cover gifts received in the prior fiscal year and shall be submitted in time to be included in the annual report.

## **ARTICLE 6. GENERAL PROVISIONS**

*(Amended ATM 2018.)*

6.1. **Scope.** The provisions of this article apply to all boards unless a specific provision of law otherwise provides.

6.2. **Orientation.** Each board should adopt policies and procedures providing for the full orientation of new members to their duties, to the jurisdiction and authority of the board, to the present activities and considerations of the board, and to such other matters as are appropriate. It shall be the responsibility of the chair of the board to carry out these policies and procedures. When a new board is established, these provisions do not apply to the orientation of the initial members.

6.3. **Staff Performance.** Each board is responsible for the faithful and competent performance of duties by persons employed or appointed by it. The Town Clerk shall have the same responsibility with regard to persons the Town Clerk employs.

6.4. Engineering. Unless expressly authorized by statute, a vote of Town Meeting, or vote of the Board of Public Works, no board, officer, or official (except the Permanent Building Committee) shall incur expense for engineering services of the kind provided by the Department of Public Works.

6.5. Advisory Committees. Any board, by vote of its members, may establish advisory committees. When such a committee is established, the appointing board shall give to the Town Clerk and the Selectmen written notice of the creation of the committee and the names and addresses of its members. The appointing board shall give similar notice of the names and addresses of all subsequent persons appointed to the committee. Advisory committee members may assist and advise the appointing board, but shall not vote or otherwise participate as full members of the board.

6.6. Committee Life. Any committee established under Section 6.5 or established by Town Meeting shall terminate one year from the date on which it was established, unless the creating body annually continues it or fixes a definite termination date no more than three years from the date of its establishment.

6.7. Initial Meeting. For a committee created by Town Meeting, the Moderator shall designate one member to call the initial meeting. For committees created by a board, the creating board shall designate the member to call the initial meeting.

6.8. Organization, Policies, and Procedures. Each board shall elect a chair, vice-chair, and secretary, inform the Town Clerk of those elected, and shall adopt policies and procedures governing the conduct of its affairs. These policies and procedures shall not conflict with the provisions of these bylaws or any other provision of law.

6.8A. Adjudicatory Hearing – Absent Member. A member of any town board holding an adjudicatory hearing, shall not be disqualified from voting in the matter solely due to the member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that the member examined all evidence received at the missed session, which evidence shall include an audio or audio-visual recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing herein shall change, replace, negate or otherwise supersede applicable quorum requirements. *(Section added ATM 2007, Article 31)*

6.9. Quorum. No board shall take any action, except to set another meeting or to adjourn, unless a quorum of its members is present. A majority of the members of the board shall constitute a quorum.

6.10. Majority Vote. An affirmative vote of a majority of those present shall be required for board action.

6.11 Reserved for future use (2011).

6.12. Public Information. In accordance with Chapter 66, Section 10 of the General Laws, every board and every person having custody of any public records (as defined in Chapter 4, Section 7 of the General Laws) shall make available copies of such records, including reports, data, background documents, and any material prepared for its use in accordance with Chapter 4 of the General Laws. If such records and materials are kept in machine-readable form, copies thereof in machine-readable form shall also be made available. Reasonable fees may be charged for the costs of search and reproduction.

6.13. Public Comments. Each board shall establish a procedure which allows members of the public to comment to the board at each open meeting on matters within the jurisdiction of the board. The procedure shall require that any person who has a personal or financial interest in any matter before the board shall disclose such interest either before, during or immediately after commenting on the matter to the board with the timing of the disclosure to be at the choice of such person.

6.14. Staggered Terms. The terms of all board members shall be arranged so that as equal a number of terms as possible shall expire each year.

6.15. Requests for Appropriations. Each board and official shall submit requests for appropriations in accordance with the provisions of Sections 11.11. - 11.13. Budgets are subject to review by the Department of Financial Services in the manner described in Section 24.1(e).

6.16. Capital Budgets. At least 90 days before the Annual Town Meeting, each board shall submit to the Selectmen estimates of the amounts *proposed and anticipated* by the board for capital projects annually for a period of five years. An explanatory statement shall accompany each estimate and provide such additional

information about the *proposed or anticipated* capital project as may be requested by the Selectmen. (Amended ATM 2004.)

6.17. Conflict of Interest. No officer, official, member of a board, or paid employee of the Town, or agent of any such person shall:

- a. sell materials or supplies to the Town without the permission of the Selectmen expressed in a vote which shall appear on the records of the Selectmen with the reasons therefor;
- b. receive any compensation or commission for work done for the Town, except for official salary and fees allowed by law, without the permission of the Selectmen expressed in a vote which shall appear on the Selectmen's records with the reasons therefor
- c. use their official position, influence, or vote in any manner so as to obtain for themselves in their private capacity or otherwise, either directly or indirectly, any commission, discount, bonus, present, advantage, or profit whatever;
- d. engage in any conduct prohibited by Chapter 268A of the General Laws, the Commonwealth's conflict of interest statute.

6.18. Bonding. Any officer, official, or paid employee required by statute or the Selectmen to be bonded shall be bonded in accordance with statute or in amounts determined by the Selectmen.

6.19. Design Review. Before any board, officer or official can construct, install, alter or remove any structure or portion thereof, work of art, ornament or decoration placed or to be placed on any public way, on Town lands other than cemeteries, or on or in Town buildings or make payments on account of any such work, the work shall be reviewed by the Design Review Board in accordance with the provisions of Section 46.3. of these Bylaws.

## **ARTICLE 7. VACANCY**

7.1. Vacancy. A vacancy occurs when an official or board member:

- a. resigns;
- b. ceases to be a resident of the Town, if required to be a resident or registered voter;
- c. dies;
- d. is barred by law from serving in the position; or
- e. no longer has the qualifications statute or these bylaws required for the position.

7.2. Vacancy in Board of Selectmen. A vacancy in the Board of Selectmen shall be governed by the provisions of Chapter 41, Section 10 of the General Laws, which provides for a special election under certain conditions.

7.3. Vacancy in Other Elected Positions. A vacancy in an elected board other than the Board of Selectmen shall be filled by appointment in accordance with Chapter 41, Section 11 of the General Laws, or by election in accordance with Chapter 41, Section 10. A vacancy in the office of Town Clerk shall be filled in accordance with Chapter 41, Section 14 of the General Laws.

7.4. Vacancy in Appointed Positions. A vacancy in any appointed board or office shall be filled by appointment in the same manner as the original appointment was made, except as otherwise specifically provided by law.

## **ARTICLE 8. TOWN MEETING**

### **Part I. GENERAL PROVISIONS**

8.1. Definitions. For the purposes of this article,

- a. the term "Annual Town Election" refers to the annual election of Town board members and officials;
- b. the term "Annual Town Meeting" refers to the meeting of Town Meeting Members required by the General Laws to be held in the month of February, March, April or May; and

- c. the term "Special Town Meeting" refers to all other meetings of Town Meeting Members.

## Part II. TOWN ELECTIONS

8.2. Date for Annual Town Election. The annual Town Election shall be held on the first Tuesday in March of each year. In any year in which presidential primaries are to be held, the date of the Annual Town Election shall be held on a date to be announced by the Selectmen. The announcement shall be made not later than December 31st of the year preceding the year in which such primary elections are to be held.

8.3 Notice of Elections. At least 35 days before the date of any Town Election, the Selectmen shall give notice of their intention to call such Election by notifying the Town Clerk. The Selectmen shall also, as soon as practicable, place a notice of the Election in a newspaper generally circulated in the Town and publish the notice on the Town's website. At least seven days before a Regular Election and 14 days before a Special Election they shall post copies of the warrant in not less than two conspicuous places in the Town including but not limited to the Town Hall and the Police Station. The warrant shall also be made available on the Town's website. (*Amended ATM 2008. Amended ATM 2019.*)

8.4. Special Election. The following procedure shall apply in the event that a vacancy occurs in the full number of Town Meeting Members of any precinct whether arising from a tie vote among those who received the highest vote as defeated candidates at the last preceding Annual Town Election or for any other cause which requires an election by the other Members of the precinct. Whenever such vacancy occurs, the Town Clerk shall promptly notify the Members of the precinct that a vacancy in the full number of Members of the precinct has occurred and that a special meeting of said Members will be called no earlier than fourteen days from the date of such notification for the purpose of filling said vacancy. The Town Clerk shall include in such notification a copy of Chapter 202, Sections 2, 8 and 8A of the Acts of 1932 as amended, and the time, place and date of the special meeting.

In the event such election is held for any reason other than a tie vote among candidates who received the highest vote as defeated candidates, the Town Clerk shall in said notification also inform the Members that they may file nominations for said vacancy with the Town Clerk up to seven days before the meeting and that any registered voter in the precinct may be so nominated. Following expiration of the said seven day period, the Town Clerk shall then notify the Members of the precinct of the nominations that have been filed.

At the meeting a majority of the Members from such precinct shall constitute a quorum. The Town Clerk shall preside, conducting the meeting in two parts. In the first part, the candidates among whom there is a tie vote or the nominees, if the election is held for a reason other than a tie vote, may address the meeting and answer any questions. In the second part, said candidates or nominees shall leave the meeting and the Members shall vote by ballot. A majority of the votes cast shall be required for a choice. If no candidate or nominee receives a majority of the votes cast on the first ballot or any succeeding ballot, then there shall be a run-off vote between the two candidates or nominees who received the highest number of votes cast on the preceding ballot. The Town Clerk shall count the ballots, make a certificate of the choice for the records and notify the person so chosen.

8.5. Termination, Resignation. Any elected Member shall cease to be an elected Member upon becoming a "Town Meeting Member ex officio" and shall cease to be a Member upon moving from the Town. A Member may resign by filing a written resignation with the Town Clerk; the resignation shall take effect on the date of filing. A Member who moves from the precinct from which the Member was elected to another precinct may serve only until the next Annual Town Election.

## Part III. TOWN MEETINGS

8.6. Date of Annual Town Meeting. The Annual Town Meeting shall commence no earlier *than the last Monday in March* and no later than the last day of May. The Selectmen shall fix the time and place for the Meeting. (*Amended ATM 2004.*)

8.7. Membership. There shall be 240 Town Meeting Members, exclusive of Town Meeting Members ex officii, elected from the residents of the Town, or such lesser number as may be required by Chapter 202, Section 2 of the Acts of 1932 as amended.

8.8. Town Meeting Members, Ex Officiis. The Moderator, Town Clerk and Town Counsel shall be "Town Meeting Members, ex officii" and shall be non-voting Members of the Meeting.

8.9. Duties. The Town Meeting shall be the legislative body of the Town. It shall meet, deliberate, act, and vote in the exercise of the corporate powers of the Town.

8.10. Notice of Town Meeting. Notice of each Town Meeting, whether Annual or Special, shall be given by the Selectmen by publishing a copy of the notice in a newspaper generally circulated in the Town at least seven days before the date on which the Annual Town Meeting, and at least 14 days before the date on which a Special Town Meeting, is to commence. Said notice shall state the time and place of the meeting and that the full text of the warrant shall be published on the Town's website and be available from the Selectmen's office. Additionally, the Selectmen shall post attested copies of the warrant for that Meeting in no less than two conspicuous places in the Town including but not limited to the Town Hall and the Police Station and shall make the warrant available on the Town's website. (*Amended ATM 2008. Amended STM May 2019.*)

8.11. Calling Special Meeting. The Selectmen shall call a Special Town Meeting upon request in writing of 200 registered voters. The meeting shall commence not later than 45 days after receipt of such request, in accordance with Chapter 39, Section 10 of the General Laws. The Selectmen may also call a Special Town Meeting on their own initiative.

8.12. Warrant Articles. The Selectmen shall insert in the warrant all subjects requested of them in writing by:

- a. any board,
- b. any official,
- c. ten or more registered voters, for an Annual Town Meeting, and
- d. 100 or more registered voters, for a Special Town Meeting. The Selectmen may also insert subjects on their own initiative, and
- e. those persons or boards authorized by Chapter 40A, Section 5 of the General Laws to initiate adoption of or changes in Zoning Bylaws.

8.13. Motions. The Selectmen shall include, in the notice given under Section 8.10. a date by which motions to be offered to the Town Meeting must be submitted to the Selectmen. The Selectmen shall forward copies of motions to the Advisory Committee, Town Counsel, and any other board, officer or official they deem appropriate.

No motion or amendment thereof shall be voted on by Town Meeting unless the exact form of the motion or amendment being voted on shall have been distributed generally to Town Meeting Members or at the time of the vote the exact form is projected on a screen at Town Meeting. This paragraph shall not apply to procedural motions and amendments thereof.

Nothing herein shall preclude a sponsor or other person who has filed a copy of a draft of a motion with the Selectmen from making any change therein prior to or at the Town Meeting, compel the sponsor or other person to make any motion whatsoever under such article, or prevent any person other than a sponsor from making a motion at Town Meeting even though a copy thereof was not previously filed with the Selectmen.

Motions for the acquisition and improvement of land, buildings, or other physical assets valued over \$5,000, excluding replacement of similar equipment, whether by purchase, gift or otherwise, shall be accompanied by financial estimates showing the impact of annual maintenance costs thereto.

After the initial call to order of any Annual or Special Town Meeting, if a proponent informs the Moderator of an intention to present any amendment or substitute motion or resolution, such proponent shall thereafter post a notice of same at the place provided therefor, along with a text of what is being proposed. Such notice shall be posted as soon as practicable and in advance of when action is to be taken on the article to which it relates.

8.14. Compensation. No Town Meeting Member shall receive compensation for serving as such.

8.15. Quorum. A quorum shall be a majority of the voting Members, but a lesser number may adjourn the meeting to another time.

8.16. Persons Authorized to Address Meeting. All residents of the Town, whether or not Town Meeting Members or registered voters, may address a Meeting. Non-residents may address the Meeting with the approval of the Moderator or a majority of the Meeting.

8.17. Conflict of Interest. A Member who has a personal or financial interest in any matter before the Meeting may speak or vote thereon, but if the Member does speak, the Member shall disclose such interest. Failure to comply with the provisions of this section shall not affect the validity of any action taken by the Meeting.

8.18. Motions by Members. Motions may be made only by a Member of the Meeting. All motions other than procedural motions must be in writing signed by the sponsoring Member. No seconds are needed for any motion.

8.19. Secret Ballots. There shall be no secret ballots or other secret votes at Town Meeting.

8.20. Vote Questioned at Meeting. If a vote declared by the Moderator is immediately questioned by seven or more Members, the Moderator shall verify it by taking a standing vote.

8.21. Vote.

- a. Vote By Ballot: Upon a motion supported by not less than 20 members made prior to a vote on any question (whether required by law to be a counted vote or not), the vote shall be taken by ballot in such form as will in the opinion of the Moderator indicate how individual Town Meeting Members have voted on a question. The results of such vote shall be announced in terms of the numbers of aye, nay or abstain votes cast. The Town Clerk shall, within a reasonable time after the session has been adjourned compile a list of members voting on the question, which list shall disclose how each member voted. Said list, together with the original ballots, shall be open to public inspection so that the public shall be able to determine the way in which each Town Meeting Member voted on the question, and shall be preserved for at least three years.
- b. Declaring the Vote: If a law or a bylaw requires a two-thirds vote for action by the Meeting, the Moderator is authorized pursuant to G.L. c. 39, §15 to declare the vote without taking a count, subject to Bylaws 8.20, 8.21(A) and 8.22; and if more than a two-thirds vote is required the Moderator may first determine whether the vote is unanimous, and if it is not, the vote shall be counted either by means of a standing vote or by a roll call, or by ballot as provided in said bylaws.”;

8.22. Roll Call Votes. Upon motion supported by not less than 60 Members made prior to a counted vote on any question, there shall be a roll call of Members. The Town Clerk shall record the vote of each Member "Aye", "Nay", "Abstain", or "Not Present" as the case may be. Abstentions shall not be included in the tally.

8.23. Reconsideration. No action taken at any session of a Town Meeting shall be reconsidered at any subsequent session, unless notice of intention to move for reconsideration shall have been given at the session at which such action was taken. If action taken at the final session is to be reconsidered, debate and a vote on a motion for reconsideration may occur at the same session only after all articles have been acted upon unless, in the Moderator's discretion, debate and a vote on the motion at an earlier point in the session would expedite the conduct of the session. Any vote which requires more than a simple majority for passage shall require a 3/5ths vote in order to be reconsidered by the Town Meeting.

8.24. Park Land. No action at any Town Meeting authorizing the sale, grant, lease, license, abandonment or use for any other purpose of land acquired for park purposes shall be valid unless it shall be approved by a two-thirds vote.

8.25. Electronic Voting. Notwithstanding any provision of these bylaws to the contrary, subject to the availability of a system to enable electronic voting by Town Meeting Members using handheld mobile devices, the Moderator may count the vote, or conduct a roll call vote, on any matter before the Town Meeting by the use of such system. (Added ATM 2019.)

## **ARTICLE 9. MODERATOR**

9.1. Election. The Town shall have an elected Moderator who is a registered voter in the Town.

9.2. Term. The term of office shall be one year.

9.3. Vacancy. When the office of Moderator is vacant because of one of the conditions described in Section 7.1. it shall be filled by Town Meeting Members at a Town Meeting held for the purpose of filling the vacancy. When the office of Moderator at a Town Meeting is vacant for any reason, the Town Meeting

Members shall elect a Moderator Pro Tempore. A Town Meeting Member may be elected as Moderator Pro Tempore. The Town Clerk shall preside at these elections.

9.4. Presiding at Meetings. The Moderator shall preside and regulate the proceedings at any Town Meeting, and shall decide all questions of order. The Moderator shall make a public declaration of all votes.

9.5. Assistance at Meetings. The Moderator may seek assistance in the conduct of Town Meetings, including the counting of votes.

9.6. Distribution of Material. The Moderator may establish reasonable procedures for the distribution of material at Town Meetings.

9.7. Appointment of Committees. The Moderator shall appoint the members of the following committees:

- a. Advisory Committee;
- b. Permanent Building Committee;
- c. Human Resources Board (*Renamed ATM 2000.*);
- d. Audit Committee;
- e. Four members of the Community Preservation Committee

and shall appoint the members of other committees as authorized by Town Meeting.

9.8. General Provisions. The Moderator shall also be governed by the applicable provisions of Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to boards, except as the Moderator is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 10. REFERENDUM**

10.1. Procedure. The Town shall have a referendum procedure for contesting certain votes taken at Town Meeting. The procedure is set forth in Chapter 202, Section 9 of the Acts of 1932 as amended. (See the appendix.)

## **ARTICLE 11. ADVISORY COMMITTEE**

11.1. Membership. The Town shall have an Advisory Committee consisting of 15 residents appointed by the Moderator. No member of the Committee shall be a board member, officer, official or paid employee of the Town, except that a Town Meeting Member may be a member of the Committee.

11.2. Term. The term of office shall be three years commencing on *July 1. (Amended ATM 2003.)* No member of the Committee shall serve more than *six consecutive years. (Amended ATM 2004.)*

11.3. General Duties. The Committee shall consider all matters included within the articles of any warrant for a Town Meeting, and shall, after due consideration, publish a written report of its recommendations or comments on each article. The Committee may also consider and make reports or recommendations on other matters, including without limitation referenda questions, which in the Committee's judgment affect the interests of the Town. In making any written or oral recommendations as to matters which are not included among, or which differ from, those made in its written report the Committee shall announce to the Town Meeting its numerical vote thereon.

11.4. Investigatory and Review Powers. The Committee at any time shall have authority to investigate or review the books, accounts, records and management of any board, official or department of the Town for any purpose deemed necessary or advisable by the Advisory Committee. The books, accounts and records of all boards, officials and departments of the Town shall be open to inspection by the Committee and any person employed by it. In connection with the performance of its duties or exercise of its powers, the Committee shall also have authority to interview board members, officers, officials and paid employees of the Town. The Committee may employ such expert assistance and other assistance as the Committee may deem advisable in carrying out its investigatory powers provided in this section. Counsel may be engaged only in accordance with Section 25.5. (*Amended ATM 2018.*)

11.5. Staff. The Committee shall appoint such staff as it deems necessary.

11.6. Reserve Fund. The Committee shall request appropriations for the Reserve Fund at the Annual Town Meeting and shall have the authority to vote the transfer of monies from the Fund.

11.7. Public Hearing. The Committee shall hold a public hearing, unless impracticable, on the articles in the warrant prior to any Town Meeting.

11.8. Report. A copy of the report of the Committee shall be mailed or delivered to each Town Meeting Member and Town Department at least seven days before the commencement of any Town Meeting. A minority may present a separate report which shall be included in the report of the Committee. The report shall set forth the numerical vote of the Advisory Committee on each recommendation. The report shall be available on the Town's website, and available for pick-up at the Town Clerk's Office, and at the Wellesley Free Library. The Selectmen's Office shall also mail a copy of the report to any resident who requests one. Further, the Advisory Committee shall mail a letter from the Advisory Chair to each dwelling in the Town at least seven days before the commencement of any Town Meeting. The Chair's letter will contain an overview of the then current status of the budget, including any anticipated overrides, information on capital projects that will require bonding, and significant factors for future budgets. The letter will also contain a summary of other significant matters coming before Town Meeting as deemed appropriate by the Chair. The letter will indicate when and where copies of the Advisory Report will be available. *(Replaced ATM 2008.)*

11.9. General Provisions. The Committee shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

11.10. Definition. "Annual appropriation" means the general appropriation requested each year by any board, official or officer for those amounts necessary for the proper administration of their respective offices or departments for the ensuing fiscal year, including those amounts necessary for capital improvements.

11.11. Requests for Annual Appropriations. Any board, official or officer intending to request an annual appropriation at the Annual Town Meeting shall furnish to the Committee detailed estimates, with appropriate explanations, of the amounts necessary for the proper administration of their respective offices or departments for the ensuing fiscal year at least 90 days before the commencement of the Annual Town Meeting. The Advisory Committee may authorize a late filing of such information. The request shall also include estimates of amounts necessary for capital improvements. There shall also be included estimates of all probable items of income which may be received by the requesting board, official or officer during the ensuing fiscal year in connection with the administration of their departments or offices.

11.12. Notice of Request for Capital Projects. The information required to be submitted to the Permanent Building Committee in accordance with Section 14.6. shall be submitted at the same time to the Advisory Committee.

11.13. Notice of Request for Other Appropriations. For any appropriation other than those involving collective bargaining or covered by Sections 11.11. and 11.12. the requesting board, official or officer shall file written notice thereof, including the amount to be requested and its purpose, with the Advisory Committee and the Board of Selectmen at least 14 days before the session of the Town Meeting at which such appropriation will be acted upon. In the event of emergency requiring immediate consideration, this provision may be waived by the Town Meeting but only upon the advice of the Advisory Committee that it has duly considered the request.

11.14. Request for Town-Wide Financial Reports. The Advisory Committee shall request that the Board of Selectmen present to them, at a meeting of the Advisory Committee to be held prior to the date of the Advisory Committee's Public Hearing on the Warrant for the Annual Town Meeting, both (i) the Five Year Capital Budget Program for the Town as required by Section 19.5.2.e., and (ii) the Town-Wide Financial Plan as required by Section 19.16.2.e." *(New Section ATM 2004.)*

## **ARTICLE 12. SUSTAINABLE ENERGY COMMITTEE**

*(Established ATM 2010. Amended ATM 2018.)*

12.1 Membership. The Town shall have a Sustainable Energy Committee consisting of 7 members. The Board of Selectmen, the Municipal Light Board and the School Committee each shall appoint one member. These members may be a board member, officer, official or paid employee and may be a non-resident of the

Town. The Board of Selectmen shall also appoint the remaining four members from residents active in the Town's volunteer sustainable energy initiatives or others who bring relevant expertise, such as knowledge about sustainable energy practices, marketing, or community engagement.

12.2 Term. The term of office shall be three years commencing on July 1. Members may be reappointed at the end of their term.

12.3 General Duties. The Committee shall propose sustainable energy goals, to reduce Town greenhouse gas emissions from the municipal, residential, commercial, industrial and institutional sectors, to Town Meeting. The Committee shall prepare a multiyear action plan to achieve the Town sustainable energy goals and shall revise it as needed. The Committee shall work with municipal departments, businesses, institutions, and civic and volunteer organizations to initiate and carry out actions to achieve these goals and shall coordinate municipal activity with initiatives of these other organizations. The Committee shall prepare an annual Town-wide emissions inventory and develop an annual action plan that includes significant planned initiatives by both municipal and community organizations. (*Amended ATM 2018.*)

12.4 Staff. The Committee shall appoint a sustainable energy coordinator and such other staff as it deems necessary.

12.5 Annual Report. The Committee shall report to Annual Town Meeting on (a) the actions of the prior year, (b) emissions trends and performance as compared to the Town goals, (c) any proposed revisions to the multiyear Sustainable Energy Action Plan, and (d) recommended action plans for the coming year.

12.6. Budget. The Committee shall prepare an annual budget which will be subject to approval by the Selectmen. The Selectmen are responsible for presenting the budget to the Advisory Committee and for presenting the motion for the budget appropriation to Town Meeting.

12.7 General Provisions. The Committee shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

Provided, each appointing authority shall have thirty days after the above bylaw becoming effective to make their appointments, which shall be as follows:

- a. The three members to be appointed by the Board of Selectmen, the Municipal Light Board and School Committee shall be for an initial term of three years, and thereafter for a term of three years.
- b. The terms of the community members to be appointed by the Board of Selectmen shall be two for an initial term of two years, and two for an initial term of one year, and thereafter each for a term of three years.

### **ARTICLE 13. AUDIT COMMITTEE**

13.1. Membership. The Town shall have an Audit Committee consisting of five residents having financial expertise to be appointed by the Moderator. No member of the Committee shall be a board member, officer, official or paid employee of the Town, except that a Town Meeting Member may be a member of the Committee.

13.2. Term. The term of office shall be two years commencing on April 1. No member shall serve more than two full consecutive terms.

13.3. Audits. The Committee shall annually appoint an independent certified public accountant or a firm of such accountants to make an audit of the financial statements of the Town, including all its departments. The examination shall conform with generally accepted auditing standards. Such audits shall be made annually as of the close of the fiscal year, and may also be made at such other times as the Committee, with the approval of the Selectmen, may direct.

13.4. General Duties. The Committee shall define the scope of the auditors' assignments and review their findings and recommendations with the appropriate boards and departments. It may submit any reports it deems advisable to the Town or to any board, officer or official.

13.5. Audit Reports. The Committee shall receive all reports of the auditors. It shall give any board, officer or official which is audited a copy of that portion of the audit report relating to that board, officer or official. It shall also file a copy of each audit report with the Town Clerk within 120 days after the close of the fiscal year and the copy shall be a public record.

13.6. Annual Report. In addition to the requirements of Article 4, the Committee's annual report shall include copies of summary balance sheets and summary statements of receipts and expenditures of the accounts of the Town for the preceding fiscal year, together with such other financial statements and recommendations as the Committee may deem appropriate.

13.7. General Provisions. The Committee shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 14. PERMANENT BUILDING COMMITTEE**

*(Revised ATM 2017.)*

14.1. Definitions. For the purposes of this article:

- a. "Project" means the design and/or construction of a building or structure as described in M.G.L. c. 149 §§ 44A through 44H and c.149A. A Project is not:
  - i. a public works as described in M.G.L. c. 30 § 39M;
  - ii. a substation or other structure or any of the service equipment thereof of the Municipal Light Plant (project does include buildings of said plant);
  - iii. any building of the Housing Authority; or
  - iv. routine maintenance and upkeep of a building or other structure and its service equipment which are performed on a regular basis.
- b. "Project Goals" means the general objectives and particular needs to be met through the construction of the project.
- c. "Design" is the schematic design, the design development, and the preparation of construction documents (or equivalent documents) developed from the project goals established by the proposing entity.
- d. "Construction" includes all steps necessary to implement or complete a project. Construction does not include: Design, as that term is defined above, or the acquisition of funds.
- e. "Entity" means the Town department, board or committee proposing a project.

14.2. Membership. There shall be a Permanent Building Committee (the "Committee") consisting of five residents appointed by the Moderator, and one or more Temporary Members, as may be appointed pursuant to Section 14.4. Appointments shall be made so that the Committee includes an attorney, an architect, an engineer, and an individual who is primarily engaged in the construction business. No such member shall be an officer, official, or paid employee of the Town, or a member of any board, except that a Town Meeting Member may be a member of the Committee.

14.3. Term. The term of office shall be three years commencing on July 1.

14.4. Temporary Member. The Committee may appoint, as a temporary additional member or members, one or more individuals who are members or representatives of the entity for which a project is being designed or constructed. A temporary member shall not have a right to vote, and may participate in the activities of the Committee only with respect to the particular project of that entity and only for the period during which the Committee is exercising its functions with respect to such project.

In the case of a School project, the School Committee shall appoint one of its members, or its designee, hereinafter referred to as the School Committee member, to be a temporary additional member of the Permanent Building Committee. The School Committee member shall have the right to vote and to participate fully in the activities of the Committee with respect to all School projects.

14.5. General Duties. The Committee shall be responsible for:

- a. Financial estimates;
- b. The design of every project **estimated to cost more than \$500,000**; and
- c. The construction of those projects for which funds are appropriated to the Committee.

The Committee shall work to achieve the project goals of the proposing entity.

14.6. Financial Requirements and Notification. Any entity that intends to propose a project to Town Meeting shall provide information regarding the project goals and the financial requirements of the project to the Committee at least 120 days in advance of the Town Meeting at which funding of any kind for the project will be requested. This information shall be simultaneously submitted to the Advisory Committee in accordance with Section 11.12. The Committee shall determine whether the sums requested are reasonable with respect to the financial requirements of the project and shall report to Town Meeting thereon.

14.7. Appropriations. The funds for the design and construction of a project shall be appropriated to and expended under the direction of the entity that will supervise the construction of the project in accordance with Section 14.8.

14.8. Supervision of Project Construction. The Committee and the proposing entity shall administer the construction of a project as follows:

- a. The Committee shall supervise the construction of all projects estimated to cost more than \$500,000, unless the Committee and the entity proposing the project agree that the proposing entity shall supervise construction.
- b. The proposing entity shall supervise the construction of all projects estimated to cost less than \$500,000, unless the Committee and the entity proposing the project agree that the Committee shall supervise construction.

14.9. Project Feasibility Studies. Any entity undertaking a project feasibility study shall inform the Committee of the study.

14.10. Design Review Board. Upon appropriation of design funds, the Committee, or the supervising entity if not the Committee, shall notify the Design Review Board of the project and the project shall not proceed except in compliance with Section 46.3.

14.11. Records. All record drawings and specifications shall be retained in accordance with Massachusetts General Laws.

14.12. Policies and Procedures. The Committee shall adopt, and make available to all boards, officers, and officials, policies and procedures implementing the provisions of this Article. They shall cover at least the following subjects:

- a. The information to be submitted under this bylaw; and
- b. The criteria the Committee will use in reviewing project designs.

14.13. General Provisions. The Committee shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

*(Amended ATM 2017.)*

## **ARTICLE 15.**

*(Reserved for Future Provisions)*

## **ARTICLE 16. CELEBRATIONS COMMITTEE**

16.1. Membership. The Town shall have a Celebrations Committee consisting of 12 residents appointed by the Selectmen. Two members of the Committee shall be members of the Wellesley Veterans' Council.

16.2. Term. The term of office shall be three years commencing on November 1st.

16.3. Duties. The Committee shall plan and carry out a proper observance of the annual Town Veterans' Celebration and such other events as the Selectmen may designate.

16.4. Budget. The Committee shall prepare an annual budget. The budget is subject to approval by the Selectmen. The Selectmen are responsible for presenting the budget to the Advisory Committee and for presenting the motion for the budget appropriation to Town Meeting.

16.5. General Provisions. The Committee shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 17. HISTORICAL COMMISSION**

17.1. Membership. The Town shall have an Historical Commission consisting of seven residents appointed by the Selectmen. (*Amended ATM 2006.*)

17.2. Term. The term of office shall be three years commencing on July 1.

17.3. General Duties. The Commission shall have the powers and duties of historical commissions under Chapter 40, Section 8D of the General Laws. These include the preservation, protection and development of the historic assets of the Town. It shall conduct researches for places of historic value and shall seek to coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print and distribute books, maps, charts, plans, and pamphlets which it deems necessary for its work.

17.4. Budget. The Commission shall prepare an annual budget. The budget is subject to approval by the Selectmen. The Selectmen are responsible for presenting the budget to the Advisory Committee and for presenting the motion for the budget appropriation to Town Meeting.

17.5. General Provisions. The Commission shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 18. HISTORIC DISTRICT COMMISSION**

18.1. Membership. The Town shall have an Historic District Commission consisting of seven residents of the Town, appointed by the Board of Selectmen, one of whom shall be a member of the Wellesley Historical Society, one of whom shall be a member of the American Institute of Architects, one of whom shall be a member of a Board of Realtors and one of whom shall be a resident or property owner in the Historic District. The Selectmen need not appoint as regular members of the Historic District Commission one person from each of said categories of persons if such specially qualified persons are not available.

18.2. Term. Regular members will each serve a term of three years. When the Historic District Commission is first established, the Selectmen shall at first appoint three members who will serve for a term of three years, two members who will serve for a term of two years, and two members who will serve for a term of one year.

18.3. General Duties. The Commission shall have all powers and duties of Historic District Commissions in accordance with the Historic District Acts, Chapter 40C of the General Laws, as amended.

No building or structure within an historic district shall be constructed or altered in any way that affects exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, with respect to such construction or alteration in accordance with Section 14D. HISTORIC DISTRICTS of the Zoning Bylaw. (*Amended ATM 2018.*)

18.4. Regulations. The Commission shall be governed in its activities by the specific regulations contained within Section 14D. HISTORIC DISTRICTS of the Zoning Bylaw.

18.5. General Provisions. The Commission shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 18A. COMMUNITY PRESERVATION COMMITTEE**

*(Established STM April 2002.)*

18A.1. Establishment: The Town shall have a Community Preservation Committee, consisting of nine members who are residents of the Town.

18A.2. Appointment Authority/Terms: The composition of the Committee, the appointment authority and the term of office shall be as follows:

- a. One member of the Natural Resources Commission as designated by said Commission for a term of three years.
- b. One member of the Historical Commission as designated by said Commission for a term of three years.
- c. One member of the Housing Authority as designated by said Authority for a term of three years.
- d. One member of the Planning Board as designated by said Board for a term of three years.
- e. One member of the Recreation Commission as designated by said Commission for a term of three years.
- f. Four members appointed by the Moderator for a term of three years.
  - a. One of whom is a member of the Wellesley Housing Development Corporation.

18A.3. Duties: The Committee shall carry out its duties consistent with the provisions of Chapter 44B of the General Laws and it shall:

- a. Study the needs, possibilities and resources of the Town regarding community preservation at least annually. The committee shall consult with existing municipal boards, including but not limited to those boards required to be consulted by Chapter 44B of the General Laws, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearings regarding community preservation needs, possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding each hearing in a newspaper of general circulation in the town
- b. Make recommendations to the Town Meeting at least annually for the acquisition, creation and preservation of open space, the acquisition and preservation of historic resources, the acquisition, creation and preservation of land for recreational use, the creation, preservation and support of community housing, and rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. Recommendations to the Town Meeting shall include their anticipated costs.
- c. Recommend, at least annually, either that Town Meeting appropriate, or set aside for later spending, not less than 10% of the revenues made available that year from the Community Preservation Fund in each of the following areas: (i) open space (not including land for recreational use), (ii) historic resources; and (iii) community housing.
- d. Include in its recommendation to the Town Meeting, whenever applicable, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

## **ARTICLE 19. BOARD OF SELECTMEN**

### **PART I. GENERAL PROVISIONS**

19.1. Membership. The Town shall have an elected Board of Selectmen consisting of five registered voters of the Town.

19.2. Term. The term of office shall be three years.

## PART II. GENERAL DUTIES

19.3. Powers. The Selectmen shall be the chief executive board of the Town and oversee all matters affecting the interest and welfare of the Town. They shall exercise the power and authority vested in the Town not specifically delegated by law to any other board or office.

19.4. War Memorial Scholarship Fund Trustees. The Selectmen shall be ex officio the War Memorial Scholarship Fund Trustees, who shall manage said fund in accordance with the provisions of Chapter 229 of the Acts of 1951, as amended and as the same shall be amended from time to time hereafter. The Town Treasurer shall be the custodian of all funds and securities thereof. The Selectmen shall include in the Annual Report a financial report of said fund, showing the total amount thereof, investments, receipts and their sources and disbursements and their purposes.

### 19.5 Capital Budgeting and Investments.

19.5.1. "Capital Project" Defined. For the purposes of this section, a "Capital Project" means:

- a. A project, estimated to cost in excess of \$100,000, for the construction, reconstruction, replacement, major repair or renovation, extension or other improvement of a public building, highway, sidewalk, storm drain, sewerage installation, incinerator, bridge, playground, park or like public works, including any work done by any public utility operated by the Town or for a facility, structure, or utility appurtenant to any of them; or
- b. A purchase of land, equipment, buildings or structures, estimated to cost in excess of \$100,000; or
- c. The preparation of plans, specifications or working drawings (estimated to cost in excess of \$10,000) for any project described in subsections (a.) and (b.)

19.5.2. Report of Capital Projects. *(Revised and amended ATM 2004.)* The Board of Selectmen shall annually coordinate the preparation and maintenance of the Town's Long-Range Capital Budget Program as follows:

- a. The Selectmen shall work with other boards in coordinating the timing of proposed and anticipated capital projects, taking into account the relative need for and cost of such projects, the effect the expenditures might have on the financial position of the Town, and alternative methods of financing.
- b. On the basis of the information submitted by each board pursuant to the provisions of Section 6.16, as may be modified with the consent of such board, the Selectmen shall compile and present to the Annual Town Meeting a Five Year Capital Budget Program for the Town identifying proposed and anticipated capital projects and their timing. The Program shall show expected use of borrowing for such projects, any expected so-called Proposition 2½ debt exclusion overrides in connection with such borrowing, and the impact of such borrowing on the Town's outstanding debt and its real estate property tax rates in upcoming years.
- c. The Selectmen shall recommend to any Annual or Special Town Meeting a method of financing for each capital project proposed to be submitted for approval at such Town Meeting. The Selectmen's recommendation shall state, for each proposed project, the proposed use of borrowing for the project, whether any so-called Proposition 2½ debt exclusion override is proposed in connection with such borrowing, and the impact of such borrowing on the Town's outstanding debt and its real estate property tax rates in upcoming years.
- d. The Selectmen shall prepare the Five Year Capital Budget Program sufficiently in advance of the Annual Town Meeting to permit the publication of the Program in the Reports to the Annual Town Meeting, pursuant to Section 11.8. of the Bylaws, together with any comments of the Advisory Committee on the Program. Before any appropriation article is considered, the Selectmen shall deliver an oral report to the Annual Town Meeting on the substance of the Program; the oral report may include recommendations or comments as the Selectmen deem appropriate. Any board may provide an oral report at the Annual Town Meeting on aspects of proposed or anticipated capital projects that relate to their areas of jurisdiction. Following the oral report on the Program, there shall be an opportunity for comments from the Advisory Committee and from Town Meeting Members.

- e. At the request of the Advisory Committee pursuant to Section 11.14., the Selectmen shall make a presentation to the Advisory Committee of the Five Year Capital Budget Program. The Selectmen may supplement their written presentation to the Advisory Committee with such recommendations or comments as they deem appropriate. The Selectmen may subsequently update or amend the Program before it is published in the Reports to the Annual Town Meeting or presented at the Annual Town Meeting.
- f. All Town boards and officers shall fully cooperate and participate, at the request of the Selectmen, in preparing and maintaining the Five Year Capital Budget Program and in presenting aspects of proposed or anticipated capital projects that relate to their areas of jurisdiction.”

19.5.3. Investment of Town Funds. The Selectmen, after consultation with the Executive Director of General Government Services, shall set guidelines and criteria for the Department of Financial Services for the investment of any and all types of Town funds, including trust funds, and shall establish adequate procedures for the reporting of investments of Town funds.

19.6. General Duties. The Selectmen shall have all of the powers and duties of boards of selectmen under the General Laws.

19.7. Appointments. (Amended ATM 2018.) The Selectmen shall appoint qualified persons to those positions which by law the board fills by appointment. Those positions include but are not limited to:

- |   |   |
|---|---|
| 1. Executive Director of General Government Services    | 16. Inspector of Gas and Plumbing               |
| 2. Fire Chief   | 17. Building Inspector                          |
| 3. Police Chief   | 18. Council on Aging                            |
| 4. Town Counsel   | 19. Youth Commission                            |
| 5. Zoning Board of Appeals (includes associate members) | 20. Keeper of the Lockup                        |
| 6. Historical Commission                                | 21. Special Police                              |
| 7. Celebrations Committee                               | 22. Animal Control Officer                      |
| 8. Registrars of Voters (Three of Four)                 | 23. Historic District Commission                |
| 9. Election Officers                                    | 24. Cable Television Committee                  |
| 10. Veterans' Grave Officer                             | 25. Wellesley Media Corporation (three members) |
| 11. Sealer of Weights and Measures                      | 26. Municipal Light Board (two members)         |
| 12. Public Weighers                                     | 26. Municipal Light Board (two members)         |
| 13. Constable   | 27. Sustainable Energy Committee (four members) |
| 14. Emergency Management Director                       | 28. Retirement Board (one member)               |
| 15. Inspector of Wires                                  | 29. Veterans Advisory Board                     |

19.8. Communication and Cooperation. The Selectmen shall encourage and facilitate close communication and cooperation among all boards, officers and officials.

19.9. Investigations. The Selectmen shall exercise the authority granted by Chapter 41, Section 23B of the General Laws to investigate the conduct and operation of any Town department and publish a report upon completion of such investigation.

19.10. Appearance Before Other Bodies. The Selectmen may appear personally, by counsel or by a designee before any committee of the General Court or before any other person or body to protect the interests of the Town. They are not authorized by this section to commit the Town to any course of action.

19.11. Legal Actions and Settlements. The Selectmen shall have full authority as agents of the Town, acting upon the advice of counsel, to institute, prosecute, defend and compromise any and all claims, actions, and proceedings on behalf of or against the Town and in which the interests of the Town are or may be involved. However, this authority shall not restrict the Collector of Taxes in the exercise of the powers for the collection of taxes and accounts due the Town conferred upon the Collector of Taxes by the General Laws. No settlement shall be made by a payment of more than \$5000 without authority from the Town Meeting. (Amended ATM 2018.)

19.12. Actions of Town Meeting. The Selectmen shall oversee the implementation of the actions of Town Meeting.

19.13. Enforcement of Bylaws and Regulations. The Selectmen shall be responsible for the enforcement of all bylaws and regulations of the Town.

19.14. Review of Bylaws and Government. The Selectmen shall periodically review the bylaws and the structure and functioning of Town government and make appropriate recommendations to the Town.

19.15. Budgets and Administration. Except as otherwise provided in or required by Chapter 164 of the General Laws, the Selectmen shall supervise those boards appointed by them and those departments responsible to them and shall recommend and present to the Advisory Committee and to the Town Meeting budgets for all those departments.

19.16. Town-Wide Financial Planning and Budgeting. (Revised ATM 2004.)

19.16.1. Definitions. For the purposes of this article, a "Town-Wide Financial Plan" means a sequenced combination of forecasts of the Town's operating budget (i) for the current fiscal year, (ii) for the next following fiscal year and (iii) for one or more fiscal years beyond the next following fiscal year. Forecasts shall be in the format commonly called "sources and uses of funds". The words "sequenced combination" are intended to require that the three component parts of the Town-Wide Financial Plan build upon one another in an orderly, reasonable manner. A "deficit balance" in a forecast means that the total uses of funds in the forecast exceed the total sources of funds in the forecast.

19.16.2. Report of Town-Wide Financial Plan. The Board of Selectmen shall annually coordinate the preparation and maintenance of the Town's Town-Wide Financial Plan as follows:

- a. The Selectmen shall work with other boards in coordinating the preparation of a Town-wide budget for the next following fiscal year, taking into account (i) the Town's ability to generate the real estate property taxes assumed in the Plan and to fund any deficit balance in the Plan; (ii) the relative need for and level of the various expenditures proposed to be made by the Town; and (iii) alternatives to any of the various sources and uses of funds in the Plan.
- b. The Selectmen shall compile and present to the Annual Town Meeting a Town-Wide Financial Plan for the Town. In this Plan, the forecast for the next following fiscal year shall be constructed by using (i) the information submitted by each board pursuant to the provisions of Sections 6.15. and 11.11. as may be modified with the consent of such board, and (ii) estimates and assumptions acceptable to the Selectmen for all other line items. The Selectmen shall identify significant estimates and assumptions used in constructing the Town-Wide Financial Plan, including assumptions as to receipt of real estate property tax revenue.
- c. For any future fiscal year in a Town-Wide Financial Plan, the Selectmen shall estimate the property tax rate that would generate real estate property taxes equal to the sum of (i) the real estate property taxes assumed as a source of funds in the forecast for the fiscal year and (ii) any deficit balance in the forecast for that fiscal year. In so doing, the Selectmen may use reasonable assumptions as to growth in the valuation of properties in the Town.
- d. The Selectmen shall prepare the Town-Wide Financial Plan sufficiently in advance of the Annual Town Meeting to permit the publication of the Plan in the Reports to the Annual Town Meeting, pursuant to Section 11.8. of the Bylaws, together with any comments of the Advisory Committee on the Plan. Before any appropriation article is considered, the Selectmen shall deliver an oral report to the Annual Town Meeting on the substance of the Plan; the oral report may include recommendations or comments as the Selectmen deem appropriate. Any board may provide an oral report at the Annual Town Meeting on aspects of the Plan that relate to their areas of

jurisdiction. Following the oral report on the Plan, there shall be an opportunity for comments from the Advisory Committee and from Town Meeting Members.

- e. At the request of the Advisory Committee pursuant to Section 11.14., the Selectmen shall make a presentation to the Advisory Committee of the Town-Wide Financial Plan. The Selectmen may supplement their written presentation to the Advisory Committee with such recommendations or comments as they deem appropriate. The Selectmen may subsequently update or amend the Plan before it is published in the Reports to the Annual Town Meeting or presented at the Annual Town Meeting.
- f. All Town boards and officers shall fully cooperate and participate, at the request of the Selectmen, in preparing and maintaining the Town-Wide Financial Plan and in presenting aspects of the Plan that relate to their areas of jurisdiction.”

19.17. Weekly Warrant. The Selectmen shall approve all bills before payment by the Treasurer.

19.18. System for Citizen Inquiries. The Selectmen shall establish a system to be administered by the Executive Director of General Government Services to take effective and efficient action on citizen complaints and requests for service.

19.19. Licensing Board. The Selectmen shall serve as the licensing board for the Town under those statutes granting licensing powers to boards of selectmen.

In granting of licenses for the sale of wines and malt beverages not to be drunk on the premises as authorized by c. 14 of the Acts of 2014 and as approved by the voters, the Selectmen shall limit such licenses to food stores and specialty food stores, said terms to be defined by the Selectmen in regulations adopted by the Selectmen after a public hearing. (*Amended ATM 2014.*)

19.20. House Numbers. The Selectmen may at any time in their discretion, and shall within ten days from the receipt of a request from the owner of any building, designate the numbers to be affixed to or painted on the building. The owner of each building so designated shall comply within ten days after receiving notice thereof.

19.21. Municipal Charges Lien. No municipal charges lien to secure reimbursement to the Town for its expenses incurred, properly chargeable to the property owner, in correcting any particular encroachment onto town-owned land, authorized by G.L. c. 40, Section 58 and vote of the 2012 Annual Town Meeting on April 2, 2012, acting under Article 30 of the Warrant for said meeting, shall be imposed without the Selectmen’s approval following the giving of due notice to the person to be charged and an opportunity to be heard. (*New ATM 2012.*)

19.22. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

### PART III. PROFESSIONAL STAFF (*Amended ATM 2005.*)

19.31. Executive Director of General Government Services. (*Revised STM 2005.*) The Town shall have an Executive Director of General Government Services (“Executive Director”) who shall be appointed by the Selectmen and who shall act for and with the authority of the Selectmen. The Selectmen may elect to enter into a contract with the Executive Director pursuant to G.L. c. 41, §108 N.

The Executive Director shall be the Chief Operating Officer of the Town, whose principal duties shall include but not be limited to:

- a. Implementing the Town’s policies and procedures as promulgated by the Selectmen as the Town’s Chief Executive Board.
- b. Overseeing and being responsible to the Selectmen in their responsibilities for the Town’s finances, including without limitation the annual Town-Wide Financial Plan and Five Year Capital Budget program required under these bylaws, and the investment of Town funds.
- c. Overseeing the development and enforcement of internal controls, using best municipal finance and general accounting practices as appropriate.

- d. Overseeing and being responsible for maintenance and quality control of all buildings and other structural assets under the Selectmen's jurisdiction and, upon request, of such assets under the jurisdiction of other boards and committees.
- e. Overseeing and being responsible for all other operating facets under the jurisdiction of the Selectmen, and as established by these bylaws, applicable special acts, and other duties as the Selectmen may from time to time specify.
- f. Coordinating the activities of Town departments and arranging meetings between Town department heads in order to deal with common problems and allow an interchange of ideas and information and to lead the Town's strategic planning.
- g. Overseeing the Town's network and information systems.

The Executive Director shall be the Town's Chief Procurement Officer, who may delegate the powers and duties of such position as provided by law.

19.32. Executive Director, Term. The term of office shall be three years commencing on July 1.

19.33. Staff. The Executive Director shall appoint the Finance Director, the Facilities Management Director (2012) and the IT Director, such appointments to be subject to the approval of the Selectmen (hereinafter referred to as "principal staff") and such other staff as the Executive Director shall deem appropriate and for which funding has been provided. The Executive Director shall exercise general supervision over all town departments for which the Selectmen are the appointing or employing authority. (Amended ATM 2018.)

19.34 Principal Staff, Term. The appointments of all principal staff shall be for a period not to exceed three years.

#### PART IV. DEPARTMENT OF FINANCIAL SERVICES (Amended STM 2005.)

19.41. Department. The Town shall have a Department of Financial Services headed by the Finance Director who shall be the Town's Chief Financial Officer.

19.42. Finance Director. (Amended ATM 2018.) The Executive Director may elect to enter into a contract with the Finance Director pursuant to G. L. c. 41, § 108 N, subject to the Selectmen's approval. The Finance Director shall be the Town Accountant and shall have, except as expressly provided by these bylaws, the powers and duties vested by law in comptrollers and town accountants. Among the duties and responsibilities of the Finance Director shall be the following:

- a. Coordinating and administrating Town financial services and activities, including providing support as needed to the Advisory Committee and other Town boards and committees.
- b. Serving as a member of the Retirement Board ex officio.
- c. Assisting in the development of budgets and reviewing all budgets for format, completeness, and accuracy before submission to the Advisory Committee.
- d. Assisting the Executive Director in preparing and supervising purchasing and inventory control procedures.
- e. Administering the disposal of Town property.
- f. Maintaining Town accounting records and financial statements.
- g. Paying all Town obligations, after securing required approvals.
- h. Monitoring all expenditures of Town funds.
- i. Timely reporting to the Selectmen and to other appropriate boards of actual or foreseeable incurring of obligations or expenditures of funds in excess of budgeted appropriations.
- j. Maintaining payroll and other financial records relating to all Town personnel.
- k. Sending to each board, at regular intervals, a statement of the funds expended during the preceding month and a statement of the balances remaining under appropriated budgets.

19.43. Treasurer and Collector of Taxes. (Amended ATM 2018.) The Town shall have a Town Treasurer and Collector of Taxes ("Treasurer/Collector"), who shall be appointed by the Finance Director, for a three-year term commencing on July 1, subject to the approval of the Executive Director. The Treasurer/Collector shall have, except as otherwise expressly provided by these bylaws, the powers and duties vested by law in Town treasurers and collectors of taxes. Among the duties and responsibilities of the Treasurer/Collector shall be the following:

- a. Collection of taxes and other funds due the Town, including the receipt of payments made on utility bills prepared and sent by the Municipal Light Plant;
- b. Initiation, with the assistance of the Executive Director and with the approval of the Selectmen, of legal action to collect overdue funds payable to the Town;
- c. Delivery of copies of any notice required by General Laws, Chapter 60, of intent to take land for the Town for nonpayment of taxes and of subsequent action relating to such taking and copies of any court order of judgment with respect to the validity or invalidity of the title in any parcel of land so taken, to the Selectmen, Planning Board, Board of Public Works, Natural Resources Commission, Housing Authority, Recreation Commission, School Committee and any other board that may request such notice, or their successors; and
- d. Investment of Town funds in accordance with the guidelines and criteria set by the Board of Selectmen for the investment of any and all types of Town funds as provided in Article 19.5.3. Investment of Town Funds.
- e. Inform all licensing authorities and assist in the collection of unpaid taxes, fees, assessments, betterments, and other municipal charges in accordance with the following procedure:
  - i. The Tax Collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the Licensing Authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as The Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments, or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.
  - ii. The Licensing Authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the Licensing Authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the Licensing Authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the Licensing Authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the Town as the date of issuance of said certificate.
  - iii. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
  - iv. The Board of Selectmen, may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any,

or members of their immediate family, as defined in Section one of Chapter two hundred and sixty-eight in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: (The references hereinafter set forth being to the General Laws): Open Burning (Section thirteen of Chapter forty-eight); Bicycle Permits (Section eleven A of Chapter eighty-five); Sales of Articles for Charitable Purposes (Section thirty-three of Chapter one hundred and one); Children Work Permits (Section sixty-nine of Chapter one hundred and forty-nine); Clubs and Associations Dispensing Food or Beverage Licenses (Section twenty-one E of Chapter one hundred and forty); Dog Licenses (Section one hundred and thirty-seven of Chapter one hundred and forty); Fishing, Hunting, Trapping License (Section twelve of Chapter one hundred and thirty-one); Marriage Licenses (Section twenty-eight of Chapter two hundred and seven) and Theatrical Events, Public Exhibition Permits (Section one hundred and eighty-one of Chapter one hundred and forty).

19.44. Purchasing Guidelines. The Executive Director, in cooperation with the Superintendent of Schools, the Director of Public Works and any other Town Officers selected by the Executive Director, shall adopt policies and procedures governing the process by which each board or department of the Town purchases or leases any item or service. The policies and procedures shall, among other things:

- a. Implement the several General Laws governing procurements by all Town departments, by providing internal procedures and guidelines for all Town procurements including, without limitation, those procurements governed by General Laws, Chapter 30B, the Uniform Procurement Act, and such other governing authority, when deemed by the Executive Director to be helpful to the procuring departments and to the Department of Financial Services;
- b. Ensure compliance with the three-year limitation in procurement contracts governed by the Uniform Procurement Act, except to the extent a longer term has been authorized by Town Meeting pursuant to General Laws, Chapter 30B, Section 12 (B), in the following respects:

<u>TYPE OF CONTRACT</u>	<u>LIMIT ON DURATION</u>
1. Communication, (Equipment and/or servicing thereof)	5 Years
2. Trash removal from municipal buildings	5 Years
3. Transportation of school children	5 Years
4. Food services beverages	5 Years (New ATM 2002)

- c. Facilitate cooperation among all Town boards and departments to ensure that, to the extent possible, all Town boards and departments jointly purchase materials and supplies used by more than one board and department;
- d. Encourage bidding for serial purchasing of major items, as defined by the Director, by requiring that each board or department prepare annually a schedule of the anticipated quantity of major items to be purchased and the anticipated timing for writing specifications, advertising for bid, awarding contracts, and receiving the merchandise.

19.45. Inventory Records and Controls. The Executive Director shall adopt policies and procedures by which all boards and departments maintain inventory records of all Town supplies, materials, and equipment and the procedures to be used for maintaining inventory controls.

19.46. Payment of Town Funds. The Executive Director shall adopt policies and procedures governing the disbursement of Town funds. These policies and procedures shall, among other things, require that payment for purchases shall be processed in the following manner:

- a. No money shall be paid from the treasury of the Town without a warrant or order prepared by the Town Accountant and signed by a majority of the Selectmen.

- b. The Town Accountant shall have custody of all vouchers which have been entered on warrants for payment and approved by the Selectmen. These vouchers shall be available for inspection during regular business hours.
- c. Whenever the account of any appropriation, other than an appropriation for a special purpose (such as a construction contract), for which the work has not been completed shows an unexpended balance at the end of the fiscal year, such balance (except in the case of the Municipal Light Plant) shall revert to the treasury of the Town as unappropriated funds; and
- d. No work, the payment for which is in any part to be contributed voluntarily by private individuals, firms or corporations shall be performed by the officer, official, department, or board of the Town having charge thereof, until a sufficient sum has been deposited with the Town Treasurer to cover such voluntary contributions.

19.47. Disposal of Town Property. The Executive Director shall adopt policies and procedures governing the disposal of surplus and obsolete Town property. "Disposal" includes any method by which the officer, official, board, or department responsible for the property terminates or substantially reduces its right to control the property. The policies and procedures shall, among other things:

- a. Implement the General Laws governing the disposal to a third party of a tangible supply no longer useful to the Town but having re-sale or salvage value (General Laws, Chapter 30B, Section 15) and the rental, conveyance or other disposition of real property (General Laws, Chapter 30B, Section 16).
- b. Establish internal procedures to ensure that no tangible or real property of the Town shall be disposed of to a third party without first ascertaining that it is not in the Town's interest to retain and/or transfer the property to another Town department.
- c. Provide that no property belonging to the Municipal Light Plant having a value in excess of \$30,000, no other tangible Town property having a value in excess of \$10,000, and no real property shall be disposed of without Town Meeting approval.
- d. Provide that each board, officer, official, and department shall annually view its property for obsolescence and report thereon to the Executive Director and shall promptly take steps for all surplus and obsolete property.

19.49 Evasion. No action shall be taken to increase or decrease, by combination or division or in any other way, the value of any item, service, or piece of property so as to avoid the effects of policies and procedures adopted by the Executive Director under Sections 19.44. and 19.47.

19.49. Annual Report. In addition to the requirements of Article 4, the Executive Director's annual report shall satisfy the requirements of Chapter 41, Section 61 of the General Laws and shall include financial statements showing the financial condition of the Town at the close of the last completed fiscal year, the results of operations in the fiscal year last completed (in the usual accounting format but of limited length and complexity), and a summary statement of (i) all investments made by the Town during the last completed fiscal year, including the rates of return, (ii) all borrowings, including amounts, rates of interest, and names of lenders from whom the money was borrowed and (iii) a list of insurance policies showing the property covered, the amount of each policy, the premiums, the names of the insurers, and the agents through whom the policies were purchased. The Executive Director's report need not repeat information contained in the annual report of the Audit Committee.

#### PART V. TOWN MEETING DUTIES

19.51. Town Meeting. The Selectmen are responsible for calling all Town Meetings and shall take such actions as are required by law or by Article 8 of these bylaws relative to Town Meeting.

19.52. Closing of Warrant. The Selectmen shall, by notice to each board and by notice in a newspaper generally circulated in the Town, specify the date when the warrant for any Town Meeting shall close.

19.53. Copies of Warrant. The Selectmen, after drawing a warrant for a Town Meeting, shall transmit as soon as possible a copy of the same to each member of the Advisory Committee and to each Town Meeting Member.

19.54. Copies of Motions. The Selectmen shall distribute copies of all draft motions received by them to the Moderator, Advisory Committee, Town Counsel, and to any board which in its opinion is likely to have an interest in the motion, so that they may communicate with the author of the motion as far in advance of the meeting as possible. Copies of such drafts shall also be available for public inspection at the Selectmen's office and at the Wellesley Free Library.

## **ARTICLE 20.**

*(Reserved for Future Provisions) (Deleted ATM 2018.)*

### **ARTICLE 20A. WELLESLEY MEDIA CORPORATION**

*(Wellesley Cable Access Board established ATM 1984. Replaced by Wellesley Cable Access Board, Inc., (aka WCAB) STM 1994. Amended Board to Corporation and other revisions ATM 1999.)*

20A.1. Purposes: An independent non-profit corporation, called the Wellesley Media Corporation, organized under Chapter 180 of Massachusetts General Laws (hereinafter referred to as the "Access Corporation"), shall be established for the purpose of encouraging, and assisting in increasing, local programming to be viewed over the cable television system(s) in the Town of Wellesley, as more explicitly delineated as follows:

- a. To provide a source of funding to assist in the development of local access programming in the Town;
- b. To develop and promote access programming for the Town;
- c. To work with and assist local organizations in the Town in developing access programming ideas;
- d. To work with and assist the Wellesley Public Schools in Developing and producing local access programming;
- e. To provide new equipment to facilitate access production(s) in the Town;
- f. To work and assist in the development of a tape library of local access programming in the Town; and
- g. To generally work and assist in the development of resources to further the goal of producing local access programming in the Town;

20A.2. Number of Directors/Term of Office: The Board of Directors of the Access Corporation shall consist of seven Directors. The Directors shall be appointed and serve three year terms, except for the initial appointments, when three Directors who shall be appointed by the Board of Selectmen, will be appointed as follows: one Director for a two year term; and two Directors for a three year term; the three Directors shall constitute the Board of Directors until the remaining four Directors are appointed by the Corporation's Directors, as follows; two Directors for a one year term; one Director for a two year term; and one Director for a three year term. The remaining four Directors shall be appointed no later than 90 days from the appointment of the initial three directors.

20A.3. Promotion of Local Programming: The Access Corporation shall work to, among other things, promote the use of studio facilities in the Town for the production of local programming to be shown on the cable television system(s) in the Town. To this end, the Access Corporation shall work with, among other groups, the School Department, cable television licensees in the Town, the Board of Selectmen and civic groups in the Town.

20A.4. Revenues: All revenues to the Access Corporation, including revenues in the Cable Access Fund, shall be administered by the Board of Directors of the Access Corporation in the furtherance of the Purposes in Section 20-A above.

20A.5. Policies and Procedures: The Board of Directors of the Access Corporation shall adopt written policies and procedures to encourage the production of local programming in the Town. The Board of Directors shall also adopt written policies and procedures outlining the procedures for the Access Corporation's conduct of its business and other affairs. All such written procedures shall be made available to the public.

20A.6. Annual Report: The Access Corporation shall provide an Annual Report to such authorities as are appropriate and/or required pursuant to Chapter 180 of the Massachusetts General Laws, with a copy sent directly to the Board of Selectmen. Said Annual Report shall be a public document.

## **ARTICLE 21. POLICE DEPARTMENT**

21.1. Establishment of the Department. The Town shall have a Police Department established by the Selectmen. It shall act under the supervision of the Chief of Police.

21.2. Responsibilities of Selectmen. The Selectmen shall:

- a. appoint a Chief of Police and such police officers as they deem necessary;
- b. have overall responsibility for the Police Department; and
- c. establish suitable policies and procedures governing the Police Department and the police officers, including standards for record keeping.

21.3. Responsibilities of the Chief of Police. The Chief of Police shall provide to the Town appropriate police and related services as determined by the Selectmen, supervise all police officers, and be responsible for all Town property used by the Department.

21.4. General Provisions. The Department shall also be governed by the applicable provisions of Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 22. FIRE DEPARTMENT**

22.1. Establishment of the Department. The Town shall have a Fire Department established by the Selectmen. It shall act under the supervision of the Chief Engineer of the Fire Department.

22.2. Responsibilities of the Selectmen. The Selectmen shall:

- a. appoint the Chief Engineer and such other Fire Engineers and employees as they deem necessary;
- b. have overall responsibility for the Fire Department; and
- c. establish suitable policies and procedures governing the Fire Department and the employees thereof, including standards for record keeping.

22.3. Responsibilities of the Chief Engineer. The Chief Engineer shall provide to the Town appropriate firefighting and other services as determined by the Selectmen, supervise all fire engineers and other employees, and be responsible for all fire stations and equipment. (*Amended ATM 2018.*)

22.4. Pumping Water from Private Buildings. Subject always to the availability of fire protection services as the Chief Fire Engineer shall determine, the Fire Department is authorized, in an emergency, to pump water from private buildings; provided, that the property owner shall be charged the following fees for such service rendered to the same building if, in the opinion of the Chief Fire Engineer, the water condition could have been avoided by the installation of a sump pump or some other action of the property owner:

<u>First Call</u>	<u>No/Charge</u>
Second Call (made by the same property owner and due to the same cause)	\$100.00
Third and subsequent calls (made by the same property owner and due to the same cause)	\$200.00

22.5. General Provisions. The Department shall also be governed by the applicable provisions of Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 23. INSPECTORS**

23.1. Appointment. (*Amended ATM 2018.*) The Selectmen shall appoint the:

- a. Inspector of Wires;
- b. Inspector of Gas and Plumbing;
- c. Inspector of Buildings; and
- d. Sealer of Weights and Measures.

23.2. Term. The term of office shall be one year commencing on July 1, except as otherwise provided by law.

23.3. Inspector of Wires. The Inspector of Wires shall perform the duties prescribed for inspectors of wires in Towns under the General Laws and the Electric Code of the Commonwealth.

23.4. Inspector of Gas. The Inspector of Gas shall perform the duties prescribed for Town inspectors of gas piping and gas appliances in buildings under Chapter 143 of the General Laws and the Fuel and Gas Code of the Commonwealth.

23.5. Inspector of Buildings. The Inspector of Buildings shall perform the inspection and zoning enforcement duties prescribed for inspectors of buildings of Towns under Chapter 143 of the General Laws, Article XXIII of the Town Zoning Bylaws, and the Building Code of the Commonwealth. The Inspector of Buildings shall also enforce the Stretch Energy Code, so called, as appearing in 780 CMR Appendix 115.AA, or any amendments thereto. (*Amended ATM 2011.*)

23.6. Sealer of Weights and Measures. The Sealer of Weights and Measures shall perform the duties prescribed for sealers of weights and measures of Towns under the General Laws.

23.7. Inspector of Plumbing. The Inspector of Plumbing shall perform the duties prescribed for inspectors of plumbing of Towns under Chapter 142 of the General Laws and the Plumbing Code of the Commonwealth.

23.8. General Provisions. The Inspectors and the Sealer of Weights and Measures shall also be governed by the applicable provisions of Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as is specifically directed by law or a provision of these bylaws to act otherwise.

23.9. Requirements for Wiring. Every corporation or person proposing to place wires designed to carry a current of electricity for light, heat or power purposes shall give notice thereof to the Inspector of Wires before commencing any work. This notice shall be on an application furnished by the Inspector of Wires and shall indicate the general character of the proposed installation, and the number, rating and kind of current consuming devices to be connected. Upon receipt of such a notice and payment of the proper fee, a permit for the commencement of the work as described shall be issued by the Inspector of Wires if all legal requirements have been observed. No work, except of an emergency nature, shall commence until a valid permit has been issued.

No conduit, either within or connecting two buildings, or any wiring within or between two buildings to be used in connection with the distribution of current for light, heat, or power, shall be covered over until approved by the Inspector of Wires, and such approval posted in a conspicuous place on or within the building so wired.

No person engaged in the practice of electrical wiring for hire shall install wires designed to carry a current of electricity for heat, light or power in the Town unless that person has exhibited and registered a license or certificate at the office of the Inspector of Buildings.

Whoever violates any provision of this section shall, in cases not otherwise provided for, forfeit and pay for each offense a fine not exceeding \$50.

## **ARTICLE 24. FACILITIES MANAGEMENT DEPARTMENT**

(*New Section ATM 2012. Amended ATM 2018.*)

24.1. Facilities Management Department. The Town shall have a Facilities Management Department.

24.2. General Duties. The Facilities Management Department shall be responsible for the maintenance, custodial services and capital planning for all Town-owned buildings including school buildings pursuant to G.L. c. 71, §68, and library buildings and all other buildings, except those buildings or portions thereof under the jurisdiction of the Municipal Light Plant, or occupied by the Water, and Sewer Departments).

24.3. Director of Facilities Management. The Facilities Management Department shall be headed by a Director of Facilities Management, who shall be appointed by the Executive Director with the Selectmen's approval and who, subject to the Executive Director's approval, shall appoint such staff as are deemed necessary to fulfill the Department's duties.

24.4. Budget. The Facilities Management Director shall prepare an annual budget which will be subject to approval by the Selectmen. The Selectmen shall be responsible for presenting the budget to the Advisory Committee and for presenting the motion for the budget appropriation to Town Meeting.

24.5. Annual Report. The Director of Facilities Management shall report annually to the Executive Director, in whatever manner and form the Executive Director finds would be helpful, on the status of all Town-owned buildings under the Director's supervision as of the end of the fiscal year, building by building, including the work performed during the year, together with recommendations for future action, and the expected costs to maintain said buildings to the appropriate standard.

## **ARTICLE 25. TOWN COUNSEL**

25.1. Office and Qualifications. The Town shall have a Town Counsel who shall be an attorney admitted to practice in the Commonwealth. Town Counsel need not be a resident of the Town or maintain a law office in the Town.

25.2. Term. The Town Counsel shall be appointed annually by the Selectmen for a yearly term to commence on July 1. The Selectmen shall have the power to remove Town Counsel whenever in their judgment the interests of the Town so require. In case of a vacancy in the office, the Selectmen shall fill the same by a new appointment.

25.3. Responsibility. Town Counsel shall be responsible for the performance of all legal services to the Town.

25.4. Duties. It shall be the duty of Town Counsel:

- a. to examine, or cause to be examined, all titles to property in which the Town may be interested;
- b. to draw, supervise the drawing, or review all deeds, obligations, contracts, bonds, leases, conveyances, agreements and other legal instruments, of whatever nature, which may be required by any bylaw, vote or action of the Town, or by any board or official, or to which the Town or its agent may be a party, and which by law, usage or agreement the Town is obligated to draw;
- c. to draw, or supervise and approve, all votes for the laying out, discontinuance, change or improvement of streets or ways, for the taking of lands for any municipal purpose whatever, for the assessment of betterments, and all other forms of assessment;
- d. to commence and prosecute all actions and other legal proceedings and suits by or on behalf of the Town or any board or official, upon vote duly taken by such board or written direction of such official and after the Selectmen have been notified of and approved such vote; except that approval by the Selectmen shall not be required if Town Counsel deems the situation to be of an emergency nature or in those instances when such board or official is vested by statute with the authority to commence and prosecute legal proceedings;
- e. to defend all actions and suits brought against the Town in any Court or other tribunal in this Commonwealth or elsewhere;
- f. to appear as counsel, when directed by the Selectmen, in any other action, suit, or prosecution which may involve the rights and interests of the Town;
- g. to defend all persons elected or appointed to any board and all officers and officials of the Town in suits or prosecutions against them for any official action, or for the performance of any official duty, when any right, privilege, act or direction of the Town may be brought into question;
- h. to defend, subject to the approval of the Selectmen, all employees of the Town in suits or prosecutions against such employees for acts within the scope of their authority as agents of the Town, unless such suits or prosecutions are brought by the Town or on its behalf;

- i. to appear as Counsel before the Legislature of the Commonwealth or any committee thereof, whenever the Selectmen determine that the interests or welfare of the Town may be directly or indirectly concerned, or when requested to do so by a vote of the Town;
- j. to consult with, advise or attend meetings of any board, officer or official, either upon the request of the Chair thereof or the officer or official involved, or when in the Selectmen's opinion any matter before such board, officer or official has significant legal implications to the Town, and in either instance to furnish a legal opinion upon any subject respecting the official duties of the board, officer or official;
- k. to prepare, when requested, any article for the Warrant for any Town Meeting and to review all articles and motions for form and legal sufficiency.
- l. to make a monthly report to the Selectmen on all actions taken during the preceding month and to other Town boards, officers and officials on legal matters which occurred during the preceding month and specifically relate to such board, officer or official; and
- m. to make an annual report of the work done during the preceding year and the status of all business and litigation pending at the close of that year.

25.5. Special Counsel. Unless expressly authorized by statute, a vote of Town Meeting, or vote of the Selectmen, no board, officer or official of the Town shall engage, whether or not for remuneration, any attorney, other than Town Counsel, with regard to its or their official duties, or any Town business, or the business of any of the departments thereof. The Selectmen may, whenever they deem necessary, employ special counsel to assist or act in place of Town Counsel.

## **ARTICLE 26. TOWN CLERK**

26.1. Office. The Town shall have an elected Town Clerk who shall be a registered voter of the Town.

26.2. Term of Office. The term of office shall be three years.

26.3. Duties. The Town Clerk shall:

- a. Have the powers and duties of Town Clerks under Chapter 41 and other provisions of the General Laws;
- b. Perform those duties given to the Town Clerk by these bylaws, the Town Zoning Bylaws and Chapter 202 of the Acts of 1932 as amended;
- c. Furnish all boards, officers and officials with a copy of all Town Meeting votes affecting them and furnish all board members at the time they take their oath with copies of the current bylaws, Chapter 202 of the Acts of 1932, as amended, and the Open Meeting Law;
- d. Cause the reports (other than annual reports) of all boards, officials and officers presented to the Town to be entered in full in a suitably indexed book, which shall be known as the Book of Reports, such reports being numbered for each year in order of their presentation, with marginal references to the dates of the meetings to which they were respectively presented, and cause to be entered upon the record of each Town Meeting only such portions of such reports as may be necessary for the understanding of the action taken by the Town in each instance, together with the number of such report as entered in the Book of Reports;
- e. Notify, as soon as practicable, each person elected or appointed to a board or office of such election or appointment;
- f. Cause to be printed in suitable booklet form for limited distribution a copy of the record of the entire proceedings of the Town Meeting, said record to be printed in such quantity as the Town Clerk estimates is necessary to satisfy the usual demand; and
- g. Furnish the Selectmen for publication in the Annual Town Report a copy of the motions presented and the action taken thereon under all articles in the warrants for every Town Meeting held the preceding fiscal year.
- h. Conduct an annual census. (*New Section ATM 2005.*)

26.4. Notice to Town Meeting Members. Not later than 60 days before the Town election at which a Town Meeting Member's term will expire, the Town Clerk shall notify the member of the provisions of Chapter 202, Section 5 of the Acts of 1932, regarding candidacy for re-election.

26.5. List of Board Members. The Town Clerk is responsible for maintaining a list of current members of all boards and their current addresses.

26.6. General Provisions. The Town Clerk shall also be governed by the applicable provisions of Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to boards, except as the Town Clerk is specifically directed by law or a provision of these bylaws to act otherwise.

26.7. Fees. The fees of the Town Clerk shall be as follows: (*Amended ATM 2019.*)

<u>Item</u>	<u>Fee</u>
Marriage Certificates	\$10.00
Death Certificates	\$10.00
Birth Certificates	\$10.00
Marriage Intentions	\$30.00
Business Certificates (D/B/A)	\$60.00
Voter Identification	\$8.00
For Filing and Indexing Assignment for the Benefit of Creditors	\$25.00
For Entering Amendment of a Record of the Birth of a Child Born Out of Wedlock Subsequently Legitimized	\$20.00
For Correcting Errors in a Record of Birth	\$20.00
For Entering Delayed Record of Birth	\$30.00
For Registration of a Home Birth	\$50.00
For Filing by a Person Conducting Business Under Any Title Other Than Their Real Name a Statement of Change of Their Residence, or of Their Discontinuance, or Change of Location of Such Business	\$30.00
For Furnishing Certified Copy of Certificate of Person Conducting Business Under Any Title Other Than Their Real Name or a Statement by Such Person of Their Discontinuance, Retirement or Withdrawal from Such Business	\$ 5.00
For Recording the Name and Address, the Date and Number of the Certificate Issued to a Person Registered for the Practice of Podiatry in the Commonwealth	\$50.00
For Correcting Errors in a Record of Death	\$20.00
For Entering Certificate of Marriage Filed by Persons Married Out of the Commonwealth	\$10.00
For Correcting Errors in a Record of Marriage	\$20.00
For Recording Power of Attorney	\$20.00
For Recording Certificate of Registration Granted to a Person Engaged in the Practice of Optometry, or Issuing a Certified Copy Thereof	\$50.00
For Recording the Name of the Owner of a Certificate of Registration as a Physician or Osteopath in the Commonwealth	\$50.00
For Recording Order Granting Locations of Poles, Piers, Abutments or Conduits, Alterations or Transfers Thereof, and Increase in Number of Wires and Cable Attachments Under the Provisions of SEC. 22 of Chapter 166 of the General Laws	\$50.00 & 25.00 Additional for Streets

For Examining Records or Papers Relating to Birth, Marriage or Deaths Upon the Application of any Person, the Actual Expense Thereof, but Not Less Than	\$10.00
For Copying any Manuscript or Record Pertaining to a Birth, Marriage or Death	\$5.00 Per Page
For Receiving and Filing a Complete Inventory of All Items to be Included in a "Close-Out" Sale	\$10.00, 1 <sup>st</sup> Page, \$ 2.00 Each Additional
For Filing a Copy of Written Instrument or Declaration of Trust by Trustees of an Association or Trust, or any Amendment Thereof As Provided by Sec 2 Chapter 182 of the General Laws	\$20.00
Publications:	
- Residence Book or CD	\$15.00
- Zoning Bylaw Book	\$20.00
- Town Bylaw Book	\$15.00
- Large Maps	\$10.00
- Small Maps	\$ 5.00

**ARTICLE 27. BOARD OF REGISTRARS OF VOTERS**

27.1. Membership. The Town shall have a Board of Registrars of Voters consisting of the Town Clerk ex officio and three other registered voters of the Town appointed by the Selectmen in the manner prescribed by Section 15 of Chapter 51 of the General Laws.

27.2. Term. The term of office for registrars other than the Town Clerk shall be three years commencing on April 1.

27.3. General Duties. The Board shall have the powers and duties of boards of registrars of voters under Chapter 51 of the General Laws. These include the registration of voters.

27.4. Budget. The Board shall prepare an annual budget which shall be submitted by the Board in accordance with Sections 6.15. and 6.16.

27.5. Annual Report. The Town Clerk shall submit the annual report of the Board required by Article 4.

27.6. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

**ARTICLE 28. MUNICIPAL LIGHT BOARD**

28.1. Membership. The Town shall have a Municipal Light Board consisting of five residents, three of whom shall be the members of the Board of Public Works and two of whom shall be appointed by the Board of Selectmen. In making their appointments, the Selectmen shall seek to better assure that members of the Board have a mix of skills and experience helpful to the governance of the Municipal Light Plant, including, but not limited to, backgrounds in relevant technology, business, management, law and/or accounting.

28.2. Term. The term of office shall be three years.

28.3. General Duties. Under relevant special acts and Chapter 164 of the Massachusetts General Laws, the Board shall have the powers and duties of Municipal Light Commissioners. The Board shall meet no less frequently than monthly for the purpose of reviewing Municipal Light Plant operations and financial performance.

28.4. Manager of the Municipal Light Plant. The Board shall appoint the Manager of the Municipal Light Plant, who shall have the powers and duties of managers of Municipal Light Plants as set forth in Chapter 164 s.56,

of the General Laws. The Manager of the Municipal Light Plant shall have charge of the operation of the plant and distribution of electricity, the purchase of supplies, the employment of attorneys and agents, the provision of service, and the keeping of accounts.

28.5. Reports. In addition to the requirements of Article 4, the Board shall report quarterly to the Board of Selectmen, said reports to include an analysis of actual financial results compared to budget, an explanation of significant variances from plan and a management discussion of operations of the Light Plant. The Board shall report annually to Town Meeting, said report to include not only a summary of its quarterly financial reports to the Selectmen for the year, but also a detailed management discussion of its progress in achieving increases in productivity, of the control of operating costs, of its performance relative to comparable municipal light plants in other communities and of its coordination with other boards and departments of the Town. The Board shall also include in its annual report to Town Meeting a discussion of its long range plans and of its progress against them.

28.6 Policies. The Board shall publish its mission statement and its policies and shall seek the advice of the citizen owners and ratepayers of the Municipal Light Plant through public hearings and through their representatives at Town Meeting and on the Board of Selectmen before making any changes thereto.

28.7 General Provisions. The Board shall also be governed by Articles 2 through 7 of these Bylaws and other provisions of these Bylaws applicable generally to all Boards, except as it is specifically directed by law or a provision of these Bylaws to act otherwise.

## **ARTICLE 29. BOARD OF PUBLIC WORKS**

29.1. Membership. The Town shall have an elected Board of Public Works consisting of three residents.

29.2. Term. The term of office shall be three years.

29.3. General Duties. Under relevant special acts and Chapter 41, Sections 69C through 69F, the Board shall have the powers and duties of road commissioners, surveyors of highways, superintendent of streets, water commissioners, and sewer commissioners. The Board shall also:

- a. Establish policies for reduction, reuse, recycling, collection and disposal of garbage and solid waste, including regulations governing the use of the Recycling and Disposal Facility, said regulations also to establish such fines and other penalties for infractions of said regulations as the Board of Public Works shall deem appropriate, not to exceed however, \$200 (two hundred dollars) for any offense, each violation to constitute a separate offense. Regulations providing for fines or other penalties shall be implemented only after a public hearing and shall be subject to the procedure governing non-criminal disposition as set forth in Article 52 of these Bylaws.
- b. provide engineering services for the Town;
- c. provide maintenance or other related services for those Town departments requesting such maintenance or service;
- d. carry out maintenance, tasks and work affecting natural resources in accordance with general policies established by the Natural Resources Commission pursuant to Section 43.4.c., except when the public safety and welfare requires the Department instead to perform other maintenance, tasks or work on a temporary basis;
- e. establish rules and regulations to effectively prohibit pollutants and non-storm water discharges from entering the Town's storm water collection system, said regulations also to establish such fines and other penalties for infractions of said regulations as the Board of Public Works shall deem appropriate, not to exceed however, \$200 (two hundred dollars) for any offense, each violation to constitute a separate offense. Regulations providing for fines or other penalties shall be implemented only after a public hearing and shall be subject to the procedure governing non-criminal disposition as set forth in Article 52 of these Bylaws. *(Section added ATM 2004.)*
- f. serve as the Board designated by the Town to issue permits for the excavation of trenches on privately owned land and on public ways within the Town. Said Board shall establish rules and regulations to effectively regulate the same, said regulations also to establish such fines and other penalties for infractions of said regulations as the Board of Public Works shall deem appropriate,

not to exceed, however, \$200 (two hundred dollars) for any offense, each violation to constitute a separate offense. Regulations providing for fines or other penalties shall be implemented only after a public hearing and shall be subject to the procedure governing non-criminal disposition as set forth in Article 52 of these Bylaws. (Section added, ATM 2009.)

29.4. Director of Public Works. The Board shall appoint a Director of Public Works who shall:

- a. have the qualifications prescribed in the General Laws;
- b. hold office subject to the will of the Board;
- c. exercise and perform, under the supervision of the Board, such of the powers and duties of the Board as it may delegate to the Director.

29.5. Utilities. The water and sewer facilities shall be under the charge and control of the Board, subject to applicable statutes. The Board shall fix rates and charges for these services, and enact policies and procedures in connection with the operation, extensions, and services of those facilities.

29.6. Town Engineer. The Board shall appoint the Town Engineer who shall:

- a. have the qualifications prescribed in the General Laws;
- b. be in charge of the engineering work provided by the Department, subject to the direction and control of the Director.

29.7. Budgets. The Board shall present to the Advisory Committee separate budgets for the several divisions under its control.

29.8. Annual Report. In addition to the requirements of Article 4, the Board's annual report shall include:

- a. all engineering work and all work done on the public ways, the water and sewer plants, and collection and disposal of garbage and solid waste;
- b. all work done at the request of the Natural Resources Commission;
- c. all work done at the request of other Town departments;
- d. a review of the condition of the waterworks and sewerage plants; and
- e. a review of the condition of other facilities under the Board's control.

29.9. General Provisions. The Board shall also be governed by Articles 2 through 7 of these Bylaws and other provisions of these Bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these Bylaws to act otherwise.

29.10. Temporary Minor Repairs to Private Ways. The Town may make temporary minor repairs to private ways which have been opened to public use for two years or more and provided that such repairs are required by public necessity as shall be determined solely by the Board of Public Works. Such repairs shall be made only if petitioned for by the majority of the abutters, except in the case of special emergency involving the health or safety of people or their property as determined by said Board in its sole discretion. Cash deposits or payments shall not be required and betterment charges shall not be assessed for said repairs. The extent and type of repairs shall be determined by the Board of Public Works and shall only include the filling in of holes or depressions with material to be the same as, or similar to, those materials existing on such ways; but shall not include drainage. The Town shall not incur any liability whatsoever on account of action or inaction resulting pursuant to this Bylaw.

## **ARTICLE 30. HUMAN RESOURCES BOARD**

(Renamed ATM 2000.)

30.1. Membership. The Town shall have a Human Resources Board consisting of five residents appointed by the Moderator. No member shall be a member of another board, or an officer, official or paid employee of the Town, except that a Town Meeting Member may be a member of the Board. At least two members shall have either education or experience in personnel management or labor relations.

30.2. Term. The term of office shall be three years commencing on July 1.

30.3. Administer Plans. The Board shall administer the Classification and Salary Plans, and shall establish policies and procedures, consistent with those Plans, as it deems necessary for the administration thereof.

30.4. Human Resources Director. The Board shall appoint a Human Resources Director and such staff as it deems necessary.

30.5. Review Work. The Board shall, as necessary and appropriate and consistent with good human resources practices, review the work of all positions subject to the Classification Plan. Such reviews shall be so scheduled as to respond to requests by department heads or upon the Board's initiative when it becomes aware of circumstances that indicate that a review is appropriate. As a result of such review, the Board may tentatively add a new position to or delete an existing position from the Classification Plan or reclassify an existing position to a different group subject to the subsequent ratification of its action by a formal amendment of the Classification Plan at the next annual or special Town Meeting. (*Amended ATM 2010.*)

30.6. Review Salary Plan. The Board shall, from time to time, review the Salary Plan. It shall keep informed as to pay rates and policies outside the service of the Town, and shall recommend to the Town any action which it deems desirable to maintain a fair and equitable pay level.

30.7. Variations in Salary Plan. Upon recommendation of an officer supported by evidence in writing of special reasons and exceptional circumstances satisfactory to the Board, the Board may authorize an entrance rate higher than the minimum rate for a position, and such other variances in the Salary Plan as it may deem necessary for the proper functioning of the services of the Town.

30.8. Recruitment. The Board shall recruit applicants for positions in the Classification Plan.

30.9. Records. The Board shall maintain such records as are necessary to comply with fair employment practice laws and the rules of appropriate regulatory agencies, and maintain personnel records of all employees in the Classification Plan, including therein such information as it deems desirable.

30.10. Personnel Policies Nonunion Employees. The Board shall recommend personnel policies and procedures to all boards, officers and officials relating to their employees, and shall establish subject to approval by Town Meeting and administer such procedures and policies for all Town employees not covered by collective bargaining agreements.

30.11. Compliance Advice. The Board shall advise all boards, officers and officials as to compliance with applicable fair employment practice laws and other applicable state and federal laws and regulations.

30.12. Collective Bargaining Agent. The Board shall act as the collective bargaining agent for the School Committee when so directed by that Committee, or for any other board when so directed by the Selectmen.

30.13. Civil Service Law. Nothing in this article, or in the Salary Plan, shall be construed to conflict with Chapter 31 of the General Laws.

30.14. Requests for Information. All boards, officers, officials and employees thereof shall furnish such information to the Human Resources Board as it shall request in the performance of its duties.

30.15. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 31. CLASSIFICATION AND SALARY PLANS**

31.1. Classification Plan. The positions of all officers and employees in the service of the Town (whether full time, part time, seasonal, casual, special, or others) other than those positions filled by popular election and those under the direction and control of the School Committee, are hereby classified by titles in the groups listed in Schedule A entitled "Job Classification by Groups" which follows this article and is made a part hereof. (See Appendix.)

31.2. New or Changed Positions. Whenever a new position is established that is not included in a collective bargaining unit, or the duties of an existing position not included in a collective bargaining unit are so changed that in effect a new position is created, upon presentation of substantiating data satisfactory to the Human Resources Board, the Board shall allocate such new or changed position to its appropriate group. The

allocation of new or changed positions included in collective bargaining units shall be subject to negotiations as required by Chapter 150E of the Massachusetts General Laws. (*Amended ATM 2010.*)

31.3. Titles of Positions. No person shall be appointed, employed or paid as an employee in any position subject to the provisions of the Classification Plan under any title other than those of the Classification Plan or under any title other than that of the job the duties of which are actually performed. The job title in the Plan shall be the official title for all purposes having to do with the position and shall be used to designate the position in all payrolls, budget estimates and official reports, and in every other connection involving personnel and fiscal processes.

31.4. Reclassification of Employees. No employee may be reclassified to a job in another group, either higher or lower, until the Human Resources Board shall have determined such reclassification will be consistent with the Classification and Salary Plans. There shall be only one reclassification in any twelve-month period for any employee except in unusual circumstances.

31.5. Job Descriptions. The Human Resources Board shall maintain written job descriptions of the jobs, or positions, in the Classification Plan, describing the essential characteristics, requirements and general duties of the jobs. The descriptions shall not be interpreted as complete or limiting definitions of any job, and employees shall continue in the future, as in the past, to perform any duties assigned by department heads, supervisors, or other administrative authority.

31.6. Salary Plan. A Salary Plan is to be established by vote of the Town Meeting to provide minimum and maximum salaries, or single rate salaries, for the groups and positions in the Classification Plan. The salary range, or rate, of a group shall be the salary range, or rate, for all positions classified in the group.

31.7. Amendment to Plans. The Classification and Salary Plans may be amended by a majority vote of Town Meeting. (*Amended ATM 2001*) No amendment of either plan shall be made until it has been presented by signed petition to the Human Resources Board and acted upon by the Board. Upon receipt of such a petition, the Board, after giving the petitioners, the heads of the departments and employees affected at least three days' written notice, shall hold a hearing of the parties interested to consider the proposed amendment. If the Human Resources Board shall fail to act on an amendment so presented within fifteen days after the hearing thereon, the Board shall be deemed to have disapproved the amendment. The petition may then be presented to the Town Meeting, if so desired. The Board may, of its own motion, after a similar hearing of the parties interested, propose an amendment to either Plan.

## **ARTICLE 32. RETIREMENT BOARD**

32.1. Membership. The Town shall have a Retirement Board consisting of five persons selected in accordance with Chapter 32, Section 20(4), of the General Laws:

- a. The Finance Director *ex officio*; (*Amended STM 2005.*)
- b. Two persons elected by the members in service of the Town retirement system from among their number, or from among persons retired from such system;
- c. One person chosen by the Board of Selectmen;
- d. A person chosen by the other four members of the Board. If the fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, that member shall be appointed by the Selectmen.

32.2. Term. The term of office for the two elected and the fifth member shall be three years. Election of a member shall be held under the supervision of the Retirement Board.

32.3. Vacancies. In case of a vacancy, a successor shall be elected or appointed in the same manner as the former member.

32.4. General Duties. The Board shall have the powers and duties of retirement boards under Chapter 32 of the General Laws. These include managing the Town contributory retirement system.

32.5. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

### **ARTICLE 33. COUNCIL ON AGING**

33.1. Membership. The Town shall have a Council on Aging consisting of eleven residents appointed by the Selectmen.

33.2. Term. The term of office shall be three years commencing on July 1.

33.3. General Duties. The Council shall have the powers and duties of councils on aging under Section 8B of Chapter 40 of the General Laws. These include:

- a. coordinating and implementing programs designed to meet the needs of the aging in coordination with programs of the Massachusetts Department of Elder Affairs; and
- b. maintaining communication with those boards and organizations who may have an interest in the aging.

33.4. Director of Senior Services. The Council shall appoint a Director of Senior Services and such staff as it deems necessary.

33.5. Budget. The Council shall prepare an annual budget. The budget is subject to approval by the Selectmen. The Selectmen are responsible for presenting the budget to the Advisory Committee and for presenting the motion for the budget appropriation to Town Meeting.

33.6. Annual Report. In addition to the requirements of Article 4, the Council shall send a copy of its annual report to the Massachusetts Department of Elder Affairs.

33.7. General Provisions. The Council shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

### **ARTICLE 34. BOARD OF HEALTH**

34.1. Membership. The Town shall have an elected Board of Health consisting of three registered voters of the Town.

34.2. Term. The term of office shall be three years.

34.3. General Duties. The Board shall have the duties and powers of boards of health under the General Laws, particularly Chapter 111. These include protecting and preserving the health and well-being of the public.

34.4. Director. The Board shall appoint a Director of Public Health and other personnel as it deems necessary.

34.5. Regulations. All regulations made by the Board under Chapter 111 of the General Laws shall be published once in a newspaper generally circulated in the Town. Such publication shall be notice to all persons.

34.5A. Clean Indoor Air in Food Service Establishments.

#### Section I Definitions

- a. Smoking shall mean the lighting of, or having possession of any lighted cigarette, cigar, pipe or other tobacco product.
- b. Food Service Establishment shall mean any establishment which is required by State Law to be licensed by the Board of Health in accordance with the provisions of the State Sanitary Code, Article X "Minimum Sanitation Standards for Food Service Establishments", in order to prepare and serve food to the general public.
- c. Nonsmoking area means that area in the dining area of a food service establishment where smoking by employer or patron is prohibited.
- d. Smoking areas mean all other areas of food service establishments except where smoking is prohibited by sanitation or fire safety codes or regulations.

## Section II Regulated Conduct

- a. No person shall smoke in any establishment required to be licensed as a Food Service Establishment except in specifically designated smoking areas.
- b. Smoking areas may be designated by proprietors or other persons in charge of the above establishment, except in places in which smoking is prohibited by the Chief Fire Engineer or by other law or regulation. Designated smoking areas shall comprise no more than 75% of the establishment. Where smoking areas are designated existing physical barriers and/or ventilation systems shall be used to minimize the effects of smoke on persons in adjacent nonsmoking areas.
- c. In the case of establishments consisting of a single room the requirement of this bylaw shall be considered met, if one side of the room is reserved and posted as a nonsmoking area, and provided that no less than 25% of the seating capacity is designated as a nonsmoking area.

## Section III Exemptions

- a. Establishments with a seating capacity of less than 40 persons are exempt from this bylaw.
- b. In cases where an entire establishment or room in an establishment is taken over for a private function, this bylaw shall not apply.
- c. Establishments that have voluntarily provided a designated nonsmoking area as requested by the Board of Health shall be exempt from this bylaw for as long as their voluntary system is maintained.

## Section IV Implementation and Enforcement

- a. The proprietor or other person in charge of a restaurant shall make reasonable efforts to prevent smoking in the nonsmoking area by:
  - i. posting appropriate signs;
  - ii. arranging seating so that existing physical barriers and ventilation systems minimize the effects of smoking in a smoking area upon patrons in an adjacent nonsmoking area;
  - iii. directing patrons seated in nonsmoking areas to refrain from smoking; and
  - iv. any other means which may be appropriate.
- b. The Wellesley Board of Health may adopt rules and regulations to help effectuate the purpose of this bylaw.
- c. Any person who smokes in a nonsmoking area after notice from the person in charge that such conduct violates this bylaw shall be subject to a fine of not less than ten (10) dollars or more than thirty (30) dollars.
- d. The Wellesley Board of Health or any person aggrieved by the willful failure of the proprietor or other person in charge of a restaurant to comply with any provision of the bylaw may seek injunctive or other relief to enforce the provisions of this bylaw in a court of competent jurisdiction.
- e. Nothing in this bylaw shall make lawful smoking in any area which smoking is or hereafter be prohibited by law.

## Section V Severability

- a. If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be effected thereby.

## 34.5B. Clean Indoor Air in Public Buildings.

### Section I Definitions

- a. Public Buildings as used in this bylaw shall mean every public building owned and controlled by the Town of Wellesley.
- b. Smoking shall mean the lighting of any cigar, cigarette, pipe or other tobacco product.

## Section II Regulated Conduct

- a. There shall be no smoking in any public building. This prohibition shall extend to all enclosed structures owned or operated by the Town.

## Section III Implementation and Enforcement

- a. Any person who smokes in a nonsmoking area after notice from the person in charge that such conduct violates this bylaw shall be subject to a fine of not less than ten (10) dollars or more than thirty (30) dollars.
- b. The Wellesley Board of Health or any person aggrieved by the willful failure of the proprietor or other person in charge of a work place to comply with any provision of the bylaw may seek injunctive or other relief to enforce the provisions of this bylaw in a court of competent jurisdiction.
- c. Nothing in this bylaw shall make lawful smoking in any area in which smoking is or may hereafter be prohibited by law.

## Section IV Severability

- a. If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be effected thereby.

### 34.5C. Single-Use Plastic Check-Out Bag Reduction. (New Section ATM 2016.)

## Section I Findings and Purpose

Plastic check-out bags have a significant impact on the marine and terrestrial environment, including but not limited to: 1) harming marine and terrestrial animals through ingestion and entanglement; 2) polluting and degrading the terrestrial and marine environments; 3) clogging storm drainage systems; 4) creating a burden for solid waste disposal and recycling facilities; 5) requiring the use of non-renewable fossil-fuel in their composition. Studies have shown that even alternative “compostable” or “biodegradable” bags require very specific and controlled conditions in order to biodegrade, and have potentially negative environmental effects similar to conventional plastic bags. Such bags should therefore be subject to the same restrictions as conventional plastic check-out bags.

The purpose of this Bylaw is to protect the Town’s unique natural beauty and irreplaceable natural resources by reducing the number of single-use plastic check-out bags that are distributed in the Town of Wellesley and to promote the use of reusable bags.

## Section II Definitions

The following words shall, unless the context clearly requires otherwise, have the following meanings:

- a. “Check-out bag” shall mean a bag provided by a store to a customer at the point of sale. Check-out bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.
- b. “Department” shall mean the Wellesley Health Department.
- c. “Health Agent” shall mean the Health Agent for the Wellesley Board of Health or his/her designee.
- d. “Recyclable paper bag” shall mean a paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of the bag (1) the word “recyclable” or a symbol identifying the bag as recyclable and (2) a label identifying the bag as being made from post-consumer recycled content and the percentage of post-consumer recycled content in the bag.
- e. “Reusable Check-out bag” shall mean a sewn bag with stitched handles that is specifically designed for multiple reuse and that (1) can carry 25 pounds over a distance of 300 feet; (2) is machine washable; and, (3) is either (a) made of natural fibers (such as cotton or linen); or (b) made of durable, non-toxic plastic other than polyethylene or polyvinyl chloride that is generally considered a food-grade material that is more than 4 mils thick.

- f. “Retail Establishment” shall mean any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.
- g. “Thin-Film, Single-Use Plastic Check-Out Bags” shall mean those bags typically with handles, constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and non-woven polypropylene fabric), if said film is less than 4.0 mils in thickness.

### Section III Regulated Conduct

- a. No Retail Establishment in the Town of Wellesley shall provide Thin-Film, Single-Use Plastic Check-Out Bags to customers.
- b. If a Retail Establishment provides or sells Check-Out Bags to customers, the bags must be one of the following:
  - i. Recyclable paper bag; or
  - ii. Reusable Check-Out bag.

Section IV Exemption: Thin-film plastic bags typically without handles which are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items, and other similar merchandise are not prohibited under this bylaw.

### Section V Enforcement

- a. The Board of Health and its Health Agent shall have the authority to administer and enforce this bylaw.
- b. For the first violation, the enforcing authority, upon a determination that a violation has occurred, shall issue a written warning notice to the establishment specifying the violation.
- c. The following penalties shall apply:
  - i. A fine of \$50 shall apply for the first violation following the issuance of a written warning notice.
  - ii. A fine of \$100 shall apply for the second violation and each additional violation of this by-law after the issuance of a written warning notice.
- d. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense.

### Section VI Effective Date

- a. This bylaw shall take effect six (6) months following approval of the bylaw by the Attorney General or on January 1, 2017, whichever is later for Retail Establishments with a floor area equal to or exceeding 3,500 square feet or with at least two (2) locations under the same name within the Town of Wellesley that total 3,500 square feet or more. This ordinance shall take effect one (1) year after passage for Retail Establishments less than 3,500 square feet. The Director may exempt a Retail Establishment from the requirements of this section for a period of up to six (6) months upon a finding by the Director that (1) the requirements of this section would cause undue hardship; or (2) a Retail Establishment requires additional time in order to draw down an existing inventory of thin-film, single-use check-out plastic bags.

### Section VII Regulations

- a. The Board of Health may adopt and amend rules and regulations to effectuate the purposes of this bylaw.

### Section VIII Severability

- a. If any provision of this bylaw is declared invalid or unenforceable the other provisions shall not be affected thereby.

34.6. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

### **ARTICLE 35. HOUSING AUTHORITY**

*(Amended ATM 2018.)*

35.1. Membership. The Town shall have a Housing Authority consisting of five residents, four elected by the Town and one appointed by the Massachusetts Department of Housing and Community Development.

35.2. Term. The term of office shall be five years.

35.3. Vacancy. A vacancy in the appointed position shall be filled by the Massachusetts Department of Housing and Community Development for the balance of the unexpired term. A vacancy among the elected members shall be filled as provided in Section 7.3.

35.4. Conflict of Interest. Any member of the Authority who is a tenant in a housing project shall not participate in any decision relating to the project affecting their personal interest, in compliance with Chapter 121B, Section 6 of the General Laws.

35.5. General Powers and Duties. The Authority shall have the powers and duties of such housing authorities under Chapter 121B of the General Laws. These include planning, constructing, operating, and maintaining housing for families, veterans, and elderly of low income.

35.6. Officers and Employees. The Authority shall elect from its members a chair and vice chair, and may employ counsel, an executive director who shall be ex officio secretary of the Authority, a treasurer who may be a member of the Authority, and such other officers, agents, and employees as it deems necessary. The Authority shall determine the qualifications, duties, and compensation for its members, officers, agents, and employees.

35.7. Relationship with Town. So far as practicable, the Authority shall make use of the services of the agencies, officers, and employees of the Town, and the Town shall, if requested, make available such services. Further permitted municipal acts and activities to aid the authority are set forth in said Chapter 121B, Section 23.

35.8. Records and Reports. The Authority shall keep an accurate account of all its activities, receipts and expenditures and shall report to the Massachusetts Department of Housing and Community Development, the State Auditor and the Selectmen annually.

35.9. General Provisions. The Authority shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

### **ARTICLE 36. BOARD OF TRUSTEES OF THE WELLESLEY FREE LIBRARY**

36.1. Membership. The Town shall have an elected Board of Trustees of the Wellesley Free Library consisting of six residents. *(Amended ATM 2000.)*

36.2. Term. The term of office shall be three years.

36.3. General Duties. The Board shall have the powers and duties of boards of library trustees under Chapter 78 of the General Laws. These include having the custody and management of the library and of all the property owned by the Town relating thereto.

36.4. Staff. The Board shall appoint such staff as it deems necessary.

36.5 Annual Reports. The Board shall submit an annual report to the Town in accordance with Article 4 and Chapter 78, Section 12 of the General Laws. The report shall include its receipts, expenditures, and the property in its custody.

36.6 General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 37. RECREATION COMMISSION**

37.1. Membership. The Town shall have an elected Recreation Commission consisting of five residents.

37.2. Term. The term of office shall be three years.

37.3 General Duties. The Commission shall have the powers and duties of recreation commissions under Section 14, Chapter 45 of the General Laws. These include:

- a. conducting and promoting recreation, play, sport, physical education and other programs to meet the leisure time needs of the community;
- b. maintaining communication with other interested boards, such as the Youth Commission, Council on Aging, Natural Resources Commission and the School Committee, and insofar as possible, facilitating programs and events requested by and on behalf of these interested boards; and
- c. making long-range recommendations to the Town with respect to playgrounds and recreation facilities of the Town.

37.4. Superintendent of Recreation. The Commission shall appoint a Superintendent of Recreation and such staff as it deems necessary.

37.5. General Provisions. The Commission shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 38. SCHOOL COMMITTEE**

38.1. Membership. The Town shall have an elected School Committee, consisting of five registered voters of the Town.

38.2. Term. The term of office shall be three years.

38.3. General Duties. The Committee shall have the powers and duties of school committees under the General Laws, particularly Chapter 71 other than the general charge and superintendence of the schoolhouses, which shall be the responsibility of the Facilities Management Department. (ATM 2012. Amended ATM 2018.)

38.4. Appointment of Superintendent. The Committee shall appoint and fix the compensation for the Superintendent of Schools.

38.5. Superintendent. Under the direction of the Committee, the superintendent shall:

- a. be the executive officer of the Committee;
- b. have the care and supervision of the public schools;
- c. assist the Committee in keeping its records and accounts and in making such reports as are required by law; and
- d. make recommendations to the Committee regarding teachers, textbooks, and courses of study.

38.6. Legal Counsel. The Committee may hire legal counsel in accordance with Chapter 71, Sections 37E and 37F of the General Laws.

38.7. General Provisions. The Committee shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 39. DEPARTMENT OF VETERANS' SERVICES**

39.1. Department of Veterans' Services. The Town shall have a Department of Veterans' Services.

39.2. General Duties. The Department shall have the powers and duties of departments of veterans' services under Chapter 115 of the General Laws. These include advising and assisting veterans and their dependents in procuring veterans' benefits.

39.3. Director. The officer in charge of the Department shall be known as the Director of Veterans' Services. The Director shall be a veteran and shall be appointed by the Executive Director. (Amended ATM 2018.)

39.4. Advisory Board. The Department may have an unpaid advisory board consisting of five residents to be appointed by the Selectmen in accordance with the rules and regulations promulgated by the Commission of Veterans' Services of the Commonwealth. The term of office on the Board shall be three years commencing on July 1.

39.5. Veterans' Grave Officer. Annually, in April, the Selectmen shall appoint a resident, as a veterans' grave officer. The veterans' graves officer shall be a veteran as defined by M.G.L. c. 4, § 43 The officer shall cause every veteran's grave within the Town to be suitably kept and cared for. (Amended ATM 2018.)

39.6. Budget. The Department shall prepare an annual budget. The budget is subject to approval by the Selectmen. The Selectmen are responsible for presenting the budget to the Advisory Committee and for presenting the motion for the budget appropriation to Town Meeting.

39.7 General Provisions. The Department shall also be governed by the applicable provisions of Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

#### **ARTICLE 40. YOUTH COMMISSION**

40.1. Membership. The Town shall have a Youth Commission consisting of five residents appointed by the Board of Selectmen. (Amended ATM 2018.)

40.2. Term. The term of office shall be three years commencing on July 1.

40.3. General Duties.

- a. coordinating and implementing programs which may be designed or established with the approval of the Board of Selectmen to meet the opportunities, challenges, and problems of the youth of the Town;
- b. maintaining communication with those boards and local organizations, such as the School Committee, Recreation Commission, and Board of Health, which may have an interest in youth.

40.4. Director of Youth Services. The Executive Director of General Government shall appoint a Director of Youth Services subject to the approval of the Youth Commission.

40.5. Budget. The Commission shall prepare an annual budget. The budget is subject to approval by the Selectmen. The Selectmen are responsible for presenting the budget to the Advisory Committee and for presenting the motion for the budget appropriation to Town Meeting.

40.6. General Provisions. The Commission shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

#### **ARTICLE 41. BOARD OF APPEALS**

41.1. Membership. In accordance with Section 24 of the Zoning Bylaw, the Town shall have a Zoning Board of Appeals consisting of three members appointed by the Selectmen for three year terms.

41.2. General Duties. The Board shall have the powers and duties of zoning boards of appeals under the General Laws, particularly Chapter 40A. These include deciding zoning appeals and acting on applications for special permits and variances.

41.3. Rules. The Board shall adopt rules as required by Chapter 40A, Section 12 of the General Laws.

41.4. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

#### **ARTICLE 42. BOARD OF ASSESSORS**

42.1. Membership. The Town shall have an elected Board of Assessors consisting of three registered voters of the Town.

42.2. Term. The term of office shall be three years.

42.3. General Duties. The Board shall:

- a. have all of the powers and duties of boards of assessors under the General Laws;
- b. annually make a fair cash valuation of all taxable property, both real and personal, within the Town;
- c. establish the annual tax rate;
- d. assess and apportion Town taxes and state and county taxes duly certified to them;
- e. enter into contracts for the expert appraisal of taxable property;
- f. prepare and maintain for public use a list of valuations indexed alphabetically by owner's name and a list of valuations indexed by street and house number and shall make available, when requested, copies of such lists for a reasonable reproduction fee;
- g. record and keep current all new valuations and revaluation's;
- h. act upon all applications for abatements and exemptions; and
- i. administer the Motor Vehicle Excise Tax on the Town level by supervising the preparation, processing and issuance of motor vehicle excise tax bills.
- j. make available upon the request of and at no cost to a local newspaper, the list of valuations indexed by street and house number and the list of abatements; and
- k. make available upon the request of and at no cost to a property owner, reproductions or copies of all records (not exempt from public disclosure by law) that were used in setting the valuation of the owner's taxable property subject to an application for abatement.

42.4. Chief Assessor. (*Amended ATM 2018.*) The Assessors shall appoint a Chief Assessor, who shall:

- a. be professionally qualified and experienced in the assessment and apportionment of taxes and the valuation of property for the purpose of taxation;
- b. have a term of one year, commencing on the date of appointment, serving at the discretion of the Assessors; provided, that if the Assessors fail to appoint a successor during the month preceding the expiration of said term, the incumbent shall continue to serve during the following period of one year unless sooner removed. The Chief Assessor may be reappointed annually without limit;
- c. assess and apportion taxes in the Town, subject to the approval of the Board of Assessors;
- d. value property in the Town, both real and personal, for the purpose of taxation, subject to the approval of the Board of Assessors;
- e. perform such other duties as the Assessors may require including acting as a hearing officer in the application for abatements and exemptions, and otherwise assisting the Assessors in the performance of their duties.

42.5. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

## **ARTICLE 43. NATURAL RESOURCES COMMISSION**

43.1. Natural Resources. For the purposes of this Article "natural resources" includes without limitation lakes, ponds, streams, parks, athletic and playing fields, conservation lands, reservations, forests, watersheds, wetlands, wildlife, plantings, and shade and ornamental trees and shrubs, and other outstanding natural features.

43.2. Membership. The Town shall have an elected Natural Resources Commission consisting of five residents.

43.3. Term. The term of office shall be three years.

43.4. General Duties. The Commission shall:

- a. have overall authority and responsibility with respect to:
  - i. the use, acquisition, management, preservation, and protection of conservation land,
  - ii. the use, management, preservation, and protection of park land and such other land as may be transferred to, or acquired by, the Commission,
  - iii. forest and tree nursery management,
  - iv. insect pest and moth control, and
  - v. administration of the Conservation Fund under Sections 5(51) and 8C of Chapter 40 of the General Laws.
- b. Study and make recommendations regarding the use, maintenance, management, preservation, and protection of the natural resources of the Town which are under the jurisdiction of other boards.
- c. Establish general policies to be implemented by the Department of Public Works, as provided in Section 29.3.d. for the carrying out of maintenance, tasks and work affecting natural resources, as authorized by Section 43.4.a.
- d. Propose for acquisition by the Town those natural resources that the Commission deems useful or important to the Town.
- e. Carry out such other responsibilities as the Town may assign to it or as may be permitted or required by law.

43.5. Statutory Powers and Duties. The Commission shall have all the powers and duties of conservation commissions, forest committees, park commissioners, tree wardens, moth superintendents, and superintendents of insect pest control under the General Laws, particularly under Section 8C of Chapter 40, and Chapters 45, 87 and 132.

43.6. Director of Natural Resources. The Commission shall appoint a Director of Natural Resources who shall hold office at the will of the Commission and can be removed only with the consent of at least three members of the Commission. The Commission may delegate to the Director such duties as they deem appropriate. The delegation of major responsibilities shall be in writing. The Commission shall appoint such staff as it deems necessary.

43.7. Wetlands Protection Committee. The Commission shall appoint a Wetlands Protection Committee consisting of five residents, and may appoint up to two residents as associate members to consider and vote upon applications under the Massachusetts Wetlands Protection Act in the case of absence, inability to act, or conflict of interest on the part of any member or in the event of a vacancy on the Board. The term of office shall be three years commencing on July 1. The Commission shall delegate to the Wetlands Protection Committee the power and authority to administer and enforce the provisions of the Wetlands Protection Act, Chapter 131, Section 40 of the General Laws.

43.8. Landscape Advisory Committee. The Commission shall appoint a Landscape Advisory Committee consisting of three residents. The term of office shall be three years commencing on July 1. This Committee shall assist, advise and submit plans and recommendations to the Commission for preserving, improving and enhancing Town-owned natural resources and the beauty of the Town.

43.9. Long-Range Planning Committee. The Commission shall appoint a Long-Range Planning Committee consisting of five residents. The term of office shall be three years commencing on July 1. This Committee

shall assist, advise and submit plans and recommendations to the Commission pertaining to the long-range use, acquisition, maintenance, protection and development of open space in, and natural resources of, the Town.

43.10. Plans. The Commission shall take into consideration all Town and regional plans affecting the natural resources of the Town.

43.11 General Provisions. The Commission shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

#### **ARTICLE 44. WETLANDS PROTECTION**

*(New Section ATM 2002.)*

44.1. Purpose. The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in the Town of Wellesley by prior review and control of activities deemed by the Wetlands Protection Committee likely to have a significant or cumulative effect upon wetland interests and values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution prevention, fisheries, wildlife habitat, and recreation (collectively, the "wetlands values protected by this bylaw").

44.2. Jurisdiction. Except as permitted by the Wetlands Protection Committee or as provided in this bylaw, no person shall remove, fill, dredge, build upon, or alter any of the following resource areas; marshes; wet meadows; bogs; swamps; banks; reservoirs; lakes; ponds; rivers; streams; creeks; lands under reservoirs, lakes, ponds, rivers, creeks or streams; any wetlands bordering on any of the aforesaid resource areas; isolated wetlands so long as they cover at least 2,500 square feet of surface area; land within 100 feet of the aforesaid resource areas; vernal pool habitats; lands within 200 feet of perennial streams or rivers; bordering land subject to flooding; or isolated land subject to flooding.

44.3. Definitions. Except as otherwise provided in this bylaw or in regulations of the Committee, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act, General Laws Chapter 131, Section 40, as amended, or regulations promulgated thereunder.

The following definitions shall apply in the interpretation and implementation of this bylaw.

- a. The term "stream" means an open body of running water, including brooks and creeks, which moves in a definite channel, natural or man-made, in the ground due to a hydraulic gradient, year-round or intermittent. Such bodies of running water which are intermittent (do not flow throughout the year) are streams, except for those that serve only to carry the immediate surface runoff from stormwater or snowmelt. A portion of a stream may flow through a culvert or beneath a bridge.
- b. "Vernal pool habitat" means confined basin depressions which, at least in most years, hold water for a minimum of two continuous months during the spring or summer, and which are free of adult fish populations. This includes the area within 100 feet of the mean annual boundaries of such depressions. Such areas need not lie within other resource areas subject to this bylaw to be protectable hereby. These areas are essential breeding habitat and provide other extremely important wildlife habitat functions during non-breeding seasons as well as for a variety of amphibian species.

44.4. Exemptions. The permit and application required by this article shall not be required for maintaining, or repairing, but not changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Committee at least 14 days prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Committee.

The provisions of this bylaw shall not apply to any work performed for normal maintenance or improvement of land in agricultural use or in aqua cultural use.

The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof;

provided that advance notice, oral or written, has been given to the Committee prior to commencement of work or within 24 hours after commencement; provided that the Committee or its agent, in writing, certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Committee for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Committee for review as provided by this bylaw. Upon failure to meet these and other requirements of the Committee, the Committee may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this section, the exceptions provided in the Wetlands Protection Act shall not apply under this article.

44.5. Application for Permits and Requests for Determination. Written application shall be filed with the Committee to perform activities regulated by this bylaw affecting resource areas protected by this bylaw. This application shall include such information and plans as are deemed necessary by the Committee to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit pursuant to this bylaw.

The Committee shall accept as the application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act, General Laws Chapter 131, Section 40, as amended, together with such other information and plans as is required by this bylaw and regulations issued hereunder.

Any person desiring to know whether or not proposed activity or an area is subject to this bylaw may in writing request a determination from the Committee. The Committee shall accept a Request for Determination of Applicability under the Wetlands Protection Act as a request under this bylaw. Such a request for determination shall contain information and plans specified by the regulations of the Committee.

Any person desiring to certify, for purposes of this bylaw, the limits of resource areas on a site may file a request for wetland delineation. This application shall include such information and plans as are deemed necessary by the Committee to describe and define the wetland resource areas. The Committee shall accept a Notice of Resource Area Delineation under the Wetlands Protection Act as a similar request under this bylaw.

At the time of an application request, the applicant shall pay a filing fee specified in regulations of the Committee. This fee is in addition to that required by the Wetlands Protection Act. The Committee, upon written request, may waive the filing fee for an application or request filed by a government agency.

The Committee may, at the expense of the applicant, retain an independent consultant for the purpose of providing the Committee with the data, analysis, or other information deemed by the Committee to be reasonably necessary or appropriate to assist the Committee in reviewing the application or rendering its decision, in conformity with the provisions of Chapter 44 of the General Laws.

44.6. Notice of Hearings. When appropriate, the Committee may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, General Laws Chapter 131, Section 40, as amended.

Any person filing an application with the Committee for a permit or for resource area delineation certification at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivery, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the site of the project or wetland, including any in another municipality or across a body of water. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. When a person requesting a determination is other than the owner, the notice of the hearing shall be sent by the Committee to the owner as well as to the person making the request.

The Committee shall conduct a public hearing on any application or request for determination, with written notice given at the expense of the applicant, at least five working days prior to the hearing, in a newspaper of general circulation in the Town.

The Committee shall commence the public hearing within 21 days from the receipt of a completed application or request for determination unless an extension is authorized in writing by the applicant. The hearing under

the bylaw may be continued in the same manner and conditions as under the Wetlands Protection Act and regulations. (*Amended ATM 2018.*)

The Committee shall issue its permit, its denial of a permit, or its determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

44.7. Permits, Determinations, and Conditions. If the Committee after a public hearing determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon the wetland values protected by this bylaw, the Committee shall issue or deny a permit for the activities requested. If it issues a permit, the Committee shall impose conditions which the Committee deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions.

The Committee is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Committee; for failure to meet the performance standards and other requirements in this bylaw and the regulations issued hereunder, for failure to avoid or prevent unacceptable significant or cumulative effects upon the wetland values protected by this bylaw, and where no conditions are adequate to protect those values.

A permit shall expire three years from the date of issuance. The Committee may extend a permit for one or more periods of up to three years each, upon written request made at least 30 days prior to the expiration of the permit.

For good cause the Committee may revoke or modify a permit issued under this bylaw.

The Committee in an appropriate case may combine the permit or other action on an application issued under this bylaw with the Order of Conditions issued under the Wetlands Protection Act.

No work proposed in any application shall be undertaken until the permit issued by the Committee with respect to such work has been recorded in the Norfolk Registry of Deeds or, if the land affected thereby be registered land, in the registry section of the land court for the Norfolk district, and until the holder of the permit certifies in writing to the Committee that the permit has been so recorded.

44.8. Regulations. After public notice and public hearing, the Committee shall promulgate rules and regulations to affect the purposes of this bylaw. Failure by the Committee to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw.

At a minimum, these regulations when promulgated shall define key terms in this bylaw not inconsistent with this bylaw.

44.9. Security. As a part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency or official, the Committee may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Committee, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit;

By a covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

44.10. Enforcement. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Committee shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders, and civil and criminal court actions.

Upon request of the Committee, Town Counsel shall take legal action for enforcement under civil law. Upon request of the Committee, the Chief of Police and/or Town Counsel shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Committee in enforcement.

Whoever violates any provision of this bylaw, regulations hereunder, or permits issued hereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Committee may issue citations under the non-criminal disposition procedure set forth in General Laws Ch. 40, Section 21D, as amended, which has been adopted by the Town in Article 52 of the general bylaws.

44.11. Burden of Proof. The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this bylaw. Failure to provide adequate evidence to the Committee supporting this burden shall be sufficient cause for the Committee to deny a permit or grant a permit with conditions.

44.12. Appeals. A decision of the Committee shall be reviewable in the Superior Court in an action filed within 60 days thereof, in accordance with General Laws Chapter 249, Section 4, as amended.

44.13. Relation to the Wetlands Protection Act. This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, General Laws Chapter 131, Section 40, as amended, and regulations thereunder.

44.14. Severability. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination previously issued.

## **ARTICLE 45. PLANNING BOARD**

45.1. Membership. The Town shall have an elected Planning Board consisting of five residents and an associate member who shall be a resident appointed by the Board of Selectmen and Planning Board in joint session.

45.2 Term. The term of office of elected Planning Board members shall be five years; the term of office of the associate member shall be two years.

45.3 General Duties. (Amended ATM 2004.) The Board shall have the powers and duties of planning boards under the General Laws. These include:

- a. controlling subdivision development in accordance with the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in Wellesley;
- b. making careful studies of the resources, possibilities, and needs of the Town and preparing therefrom a comprehensive plan for the Town in accordance with Chapter 41, Section 81D, Massachusetts General Laws;
- c. studying and recommending changes in the Town's Zoning Bylaw and Zoning Map;
- d. appointing members of the Design Review Board;
- e. determining the adequacy of unaccepted ways in accordance with Section 19. YARD REGULATIONS. of the Zoning Bylaw;
- f. considering applications under the Scenic Road Act;
- g. considering applications for Projects of Significant Impact in accordance with Section 16A. PROJECT. APPROVAL. of the Zoning Bylaw.

45.4. Planning Director. The Board shall appoint a Planning Director who shall hold office at the will of the Board and such staff as it deems necessary.

45.5. Annual Report. The Board shall submit an annual report in accordance with Article 4 and Chapter 41 of the General Laws. It shall also file a copy with the Massachusetts Department of Housing and Community Development and other agencies as required by law. (*Amended ATM 2018.*)

45.6. General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these bylaws to act otherwise.

#### **ARTICLE 46. DESIGN REVIEW BOARD**

46.1. Membership. In accordance with Section 22 DESIGN REVIEW of the Zoning Bylaw, the Town shall have a Design Review Board appointed by the Planning Board to consist of five members and up to three alternate members.

46.2. General Duties. The Board shall have the powers and duties granted in Section 22 of the Zoning Bylaw, including the reviewing of requests for special permits on the basis of the design criteria specified therein.

46.3. Design Review. The Board shall review the design, placement, and artistic appropriateness of any structure or portion thereof, work of art, ornament, or decoration to be placed on any public way, on Town lands other than cemeteries, or on or in Town buildings. The Board may use the design criteria established in Part C. Design Criteria of Section 22 DESIGN REVIEW of the Zoning Bylaw.

No such structure or portion thereof, work of art, ornament or decoration shall be constructed, installed, altered, or removed, and no payment shall be paid on account of any such work until:

- a. The Board has received plans for the work to be done, and
- b. The board, officer, or official undertaking the work has received a written report on the work from the Board, or thirty days have passed after the plans for the work were submitted to the Board.

46.4 General Provisions. The Board shall also be governed by Articles 2 through 7 of these bylaws and other provisions of these bylaws applicable generally to all boards, except as it is specifically directed by law or a provision of these or the Zoning Bylaw to act otherwise.

#### **ARTICLE 46A. NEIGHBORHOOD CONSERVATION DISTRICTS**

(*New Section ATM 2007.*)

##### 46A.1 Purpose

- a. This Bylaw enables the establishment of Neighborhood Conservation Districts in the Town of Wellesley for the following purposes:
  - i. to recognize that the Town of Wellesley contains unique and distinctive neighborhoods and areas which contribute significantly to the overall character and identity of the town and which are worthy of preservation and protection. Some of these may be eligible for designation as Historic Districts, while others may lack sufficient historical, architectural or cultural significance at present to qualify. The Town aims to preserve, protect and enhance these neighborhoods through the establishment of Neighborhood Conservation Districts.
  - ii. to promote conservation and preservation of existing buildings; to encourage new construction that will complement and be compatible with existing Buildings, Structures, Settings and neighborhood character; and to foster appropriate reuse and upgrading of Buildings and Structures in designated neighborhoods.
  - iii. to provide residents and property owners with the opportunity to participate in planning the future of their neighborhoods.
  - iv. to promote wider public knowledge about and appreciation for Wellesley's distinctive neighborhoods and their Buildings, Structures and Settings.

- v. and by furthering these purposes, to enhance public welfare by offering current and potential Wellesley residents a variety of neighborhoods from which to choose, thereby making the Town a more attractive and desirable place in which to live.
- b. Under this Bylaw, the Buildings in and characteristics of a neighborhood are not intended to be frozen in time by an NCD designation. Neighborhoods will be able to grow and change to meet the needs of current and future owners, while conserving the neighborhood's distinctive qualities.
- c. An NCD designation acknowledges a neighborhood and its distinctive architectural, aesthetic, historical, cultural, political, economic or social role in developing the Town of Wellesley's character.

**46A.2. Definitions.**  
(Amended ATM 2018.)

**Alteration** -- a change to a Building, Structure or Setting, or part thereof, including construction, demolition, moving, reconstruction, rehabilitation, removal, replication, restoration, or similar activities, and/or significant changes to the site itself.

**Area** – the total geographic area covered by all of the properties to be included in an NCD.

**Building** – a structure built, erected and framed with any combination of materials having a roof and permanent foundation and forming a shelter, open or enclosed, for persons, animals, or property. Gazebos and/or pavilions are included in this definition.

**Certificate of Compatibility** – a form created and issued by the NCD Commission under this Bylaw, which states that a proposed plan for Construction and/or Alterations to a Building, Structure or Setting within an NCD meets the Design Guidelines adopted for that NCD, and which is signed by that NCD Commission's Chair or other officially delegated person responsible for its issuance. A building or demolition permit may be applied for by presenting this Certificate, if the scope or nature of such projects is covered under the Design Guidelines.

**Certificate of Non-Applicability** – a form created and issued by the NCD Commission under this Bylaw, which states that proposed changes to a Building, Structure, or Setting within an NCD are not subject to review under Article 46A, and which is signed by that NCD Commission's Chair or other officially designated person.

**Certificate of Hardship** – a form created and issued by the NCD Commission under this Bylaw, which states that substantial hardship, financial or otherwise, would occur if the application for work which is not otherwise compatible failed to be approved, and that such work would not be a significant detriment to the NCD. It must be signed by that NCD Commission's Chair or other officially designated person. A building permit or demolition permit may be applied for by presenting this Certificate, if the scope or nature of such projects is covered under the Design Guidelines.

**Construction** – the erection of a new Building or Structure.

**Demolition** – the act of pulling down, destroying, removing or razing a Building and/or Structure or the act of commencing such work toward total or substantial destruction.

**Design Guidelines** – the official set of guidelines, duly adopted under this Bylaw, to guide the review of proposed Construction and/or Alterations within a particular designated NCD. The Guidelines may be mandatory, advisory or a hybrid of both as chosen for and by a specific NCD.

**Exterior Architectural Features** – such portions of the exterior of a Building or Structure, including but not limited to the architectural style, general arrangement and Setting thereof; the type and texture of exterior building materials; and the type and style of windows, doors, lights, signs and other appurtenant fixtures.

**Guidelines** – a written set of Design Guidelines and other regulations which describe the authority vested in the Area's Neighborhood Conservation District Commission

**NCD** - means a Neighborhood Conservation District in accordance with this bylaw.

**Neighborhood Conservation District Commission** - a body established under this Bylaw with the authority to review and approve or disapprove proposed Construction and/or Alterations to a Building, Structure or Setting in the NCD for compliance or compatibility with the Design Guidelines established for that District. A separate Neighborhood District Commission will be established for each designated NCD.

Petition - a document signed by at least 80% of the Property Owners, one signature per property, of a neighborhood stating the intent of the Property Owners to form a Neighborhood Conservation District, and including the supporting materials required to initiate the process by which an NCD is created.

Property Owner - the owner or one of multiple owners or one representative of other forms of legal ownership of a property as listed on the Town of Wellesley's property tax rolls. Before entering the NCD process, multiple owners must select one representative and provide the Historical Commission with written, signed confirmation of that selection.

Report - the document prepared by a Study Committee recommending favorable or unfavorable action on a Petition to create an NCD.

Setting - the characteristics of the site of a Building, Structure or undeveloped property, including, but not limited to, placement and orientation of the Building or Structure, and vegetation and landscaping.

Structure - a functional construction or object other than a Building, including but not limited to walls, fences, walks, driveways, bridges, paving, street furniture, lights and curbing.

Study Committee - the group of five (5) people appointed to review, recommend or reject a Petition to create an NCD.

Temporary Structures – constructions or other objects of any combination of materials, including, but not limited to, tents and signs, which have no permanent foundation, and are intended to remain on a property for a brief period of time,

#### 46A.3. Designation of Neighborhood Conservation Districts (NCD).

- a. To be considered for designation as an NCD, a neighborhood must satisfy the following criteria:
  - i. The Area as a whole constitutes a recognizable neighborhood which has a distinctive character, and,
  - ii. the Area contains Buildings and/or Structures and/or Settings that are significant to the architectural, aesthetic, cultural, political, economic or social history of Wellesley; or
  - iii. the Area has generally cohesive features, such as the scale, size, type of construction, materials or style of its Buildings and Structures, and/or its land use patterns and landscaping.
- b. The designation of an NCD may be initiated by neighborhood Property Owners, the Wellesley Historical Commission, the Planning Board, or the Board of Selectmen. A Petition requesting designation as an NCD shall be submitted to the Historical Commission, containing signatures of at least 80% of the Property Owners electing to be included in the proposed NCD Area, one signature per property, which petition shall also include,
  - i. a general statement of the historical, architectural or other qualities of the Area which make it appropriate for NCD designation,
  - i. a preliminary map of the Area, and
  - ii. a general outline of the scope of the Guidelines and review authority that would be proposed for the NCD
- c. Following receipt of a Petition for NCD designation, the Historical Commission shall appoint a Study Committee to investigate and prepare a Report on the appropriateness of such a designation for the Area. The Study Committee shall consist of five (5) members, of which one (1) shall be a designee of the Planning Board; one (1) shall be a designee of the Historical Commission, and three (3) shall be residents of the Area proposed for NCD designation who shall be appointed by the Historical Commission. When reasonably possible, the Study Committee should include an architect, landscape architect, or historic preservationist. Notice of a Study Committee's appointment shall be conveyed to all Property Owners in the Area and all property owners abutting the Area within 300 feet, at the address for such owners as listed in the real estate tax list of the Board of Assessors, and such information shall also be made available, to the extent reasonable, to prospective buyers through distribution to realtors with offices in Wellesley.

- d. The Study Committee, working with residents of the Area, shall evaluate the appropriateness of an NCD designation for the Area. If an NCD designation is not deemed appropriate, the Study Committee, within one (1) year of its appointment, shall prepare and file with the Historical Commission a written Report explaining why it reached a negative conclusion. If the Study Committee determines that an NCD designation is appropriate, it shall, within one (1) year of its appointment, prepare and file with the Historical Commission a written Report, to include
  - i. an overview of the significant historical, architectural or other relevant qualities of the Area, and
  - ii. a map of the geographic boundaries of the Area, and
  - iii. Guidelines for the Area, including Design Guidelines and a general statement describing the nature of the authority to be vested in the Area's Neighborhood Conservation Commission.
- e. A public hearing shall be convened by the Planning Board and conducted jointly by the Historical Commission and the Planning Board to discuss the Study Committee's findings within 60 days after the filing of its completed Report. Public notice shall be given by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing; and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing, and by conveying said notice, together with copies of the Report, to all Property Owners in the Area and by conveying said notice, with notification that the Report is available in the Planning Office, to property owners abutting the Area within 300 feet, at the address for such owners as listed in the real estate tax list of the Board of Assessors.
- f. Following the close of the public hearing, the Historical Commission and the Planning Board may, by majority vote at a joint meeting, recommend the Area for designation as an NCD. If the Historical Commission and Planning Board, acting jointly, do not vote to recommend the Area for NCD designation, or if, at or prior to the public hearing, more than 20% of the Property Owners in the proposed NCD object in writing to the proposed designation, then the proposed designation shall be deemed rejected. Property owners numbering below this 20% who do not wish to be part of the proposed NCD shall, at their request at, or prior to this hearing, be excluded from the NCD. If the NCD is favorably recommended by the Historical Commission and the Planning Board, acting jointly, the designation of the NCD shall be brought to Town Meeting for approval by majority vote.
- g. Each NCD, as adopted by Town Meeting, shall be listed by its name hereunder in Article 46A with its date of acceptance. Each NCD, as adopted by Town Meeting, shall have its own Guidelines, which are appropriate for the conservation of the particular qualities of that NCD, and shall
  - i. be based, to the extent appropriate, on the Guidelines proposed in the Petition, and
  - ii. establish the nature and scope of review authority granted the corresponding NCD Commission under this Bylaw for activities within the NCD, including, but not limited to, selecting categories and types of changes exempt from and/or subject to review.
- h. The establishment of an NCD shall not be construed to prevent the Construction or Alteration of a Building or Structure located in the NCD under a building permit, zoning permit or other municipal approval duly issued prior to the date of that NCD's establishment by the Town Meeting.
  - i. Amendments to the geographic boundaries, including additions to or withdrawals from the NCD; changes in the Guidelines, including governance and procedural changes; or dissolution of the NCD, may be proposed by 10% of the Property Owners in the NCD, an NCD Commission, the Historical Commission, the Planning Board or the Board of Selectmen. Proposals to amend or dissolve an NCD will follow the procedures described in 3.(c) - (f), beginning with the appointment of a study Committee, except, if it deems the changes minor, the Historical Commission may, by majority vote, waive appointment of a study committee. A decision to accept or reject the proposed changes will be made jointly by the Historical Commission and Planning Board following a public hearing. Proposed NCD amendments, and/or a proposal for dissolution of an NCD, must be brought to Town Meeting for approval by majority vote.

46A.4. Neighborhood Conservation District Commissions.

- a. Following Town Meeting acceptance of an NCD designation, a Neighborhood Conservation District Commission shall be appointed under Article 46A and shall consist of five (5) members and at least two (2) alternates. One (1) member and one (1) alternate shall be designees of the Historical Commission and one (1) member shall be a designee of the Planning Board. Three (3) members and one alternate shall be residents of the NCD, to be appointed by the Historical Commission. When reasonably possible, the NCD Commission shall include an architect, architectural preservationist, or landscape architect.
- b. Members and alternates of the NCD Commission designated by the Historical Commission and/or the Planning Board shall initially be appointed for staggered terms, and to two (2) year terms thereafter. Members who are residents of the NCD shall initially be appointed to staggered terms, and to three-year terms thereafter. Each NCD Commission member or alternate may continue to serve in office after the expiration of their term until a successor is duly appointed.

46A.5. Review of construction and/or alterations.

- a. The Design Guidelines for each NCD shall establish the extent of review required for Construction and/or Alterations proposed within that NCD.
- b. Except as otherwise provided in this Bylaw or in the Guidelines of an NCD, no Building and/or Structure, or their Settings, within a Neighborhood Conservation District shall be Constructed, Demolished or Altered in any way unless the NCD Commission shall first have issued a Certificate of Compatibility, a Certificate of Non-Applicability or a Certificate of Hardship.
- c. Exemptions from Review
  - i. None of the following categories or types of Construction and/or Alterations shall require review by the NCD Commission
    - 1. Temporary structures
    - 2. Interior alterations
    - 3. Storm windows, storm doors, and screens
    - 4. Colors
    - 5. Accessory structures of less than 120 square feet of floor area and less than 15 feet in height
    - 6. Exterior Alterations and Exterior Architectural Features not visible from a public way or other areas open to public access, including but not limited to, a public street, public way, public park or public body of water.
    - 7. The ordinary maintenance, repair or replacement in kind of Exterior Architectural Features and/or changes made to meet requirements deemed necessary by the Building Inspector to be necessary for public safety because of an unsafe or dangerous condition.
  - ii. In addition, the Design Guidelines for an NCD may provide for other categories or types of Construction and/or Alterations within that NCD which shall not require review by its NCD Commission.
  - iii. Although not a condition for obtaining a building permit, any Property Owner may request, and the NCD Commission shall issue, a Certificate of Non-Applicability for any Construction and/or Alterations that are exempt from the review of the NCD Commission pursuant to the foregoing.
- d. Review
  - i. All Construction and/or Alterations that are not exempt from review shall be subject to review by the NCD Commission.
  - ii. Any person wishing to perform Construction and/or Alterations that require review shall first file an application with the NCD Commission for a Certificate of Compatibility in such form as

the NCD Commission may reasonably determine. In addition, plans, elevations, specifications, photographs, description of materials and other information as may be reasonably deemed necessary by the NCD Commission to enable it to make a determination on the application may be requested of the applicant. The date of the filing of an application shall be the date of the receipt of the application by the NCD Commission

- iii. Following submission of an application for a Certificate of Compatibility deemed complete by the NCD Commission, the Commission shall determine within fourteen (14) days whether the application involves features that are subject to approval by the Commission. If it determines that the application is subject to review, the NCD Commission shall then hold a public hearing within 45 days of the filing date. Public notice of the time, place and purposes of the hearing shall be given at least fourteen (14) days before the hearing date by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by conveying said notice to all Property Owners in the NCD and owners of properties abutting the property subject to the hearing, at the address for such owners as listed in the real estate tax list of the Board of Assessors.
- iv. Following the close of the public hearing, the NCD Commission shall determine whether the proposed Construction and/or Alterations are compatible with the Design Guidelines. If the NCD Commission decides that the proposed Construction and/or Alterations are compatible, it shall issue a Certificate of Compatibility. If the NCD Commission decides that the Construction and/or Alterations are not compatible, the NCD Commission shall provide the applicant with a written statement of the reasons for its disapproval. A Certificate of Hardship may be issued if the NCD Commission determines that failure to issue a Certificate of Compatibility would result in substantial hardship, financial or otherwise, and that the proposed alteration, construction or demolition would not be a significant detriment to the NCD.
- v. If the NCD Commission fails to make a determination within 60 days after the close of the public hearing, or such further time as the applicant may allow in writing, the Certificate of Compatibility shall be deemed granted, and the NCD Commission shall issue a Certificate of Compatibility.
- vi. The NCD Commission shall file with the Building Inspector, Zoning Board of Appeals, Planning Board, and Historical Commission a copy of all Certificates of Compatibility, Certificates of Non-Applicability, Certificates of Hardship and determinations of disapproval.
- vii. The Design Guidelines for the NCD may provide that certain categories or types of Construction and/or Alterations shall be subject to advisory, non-binding review by the NCD Commission, or an owner may request such non-binding review of otherwise exempt Construction and/or Alterations, in which event the review procedures shall be followed, but without the NCD Commission voting or rendering a binding decision.
- viii. The NCD Commission shall meet with the Property Owners in the NCD for the purpose of determining whether or not the District's Guidelines are still appropriate. The first of these meetings shall occur two (2) years from the date of the District's designation as an NCD, and shall occur at no less than five (5) year intervals thereafter, unless this interval is changed, by a majority vote of the Property Owners after the first two (2) years. Recommendations for amendments to the Guidelines must be approved by a majority of the District's Property Owners and the amendment procedures described in 3.(i) must be followed.

#### 46A.6. Decision Criteria.

- a. In passing upon matters before it, the NCD Commission may consider, among other things:
  - i. the historical and architectural value and significance of the particular Buildings, Structures and/or Settings being affected, as well as the effects of same on the NCD;
  - ii. the suitability of the Construction's, Alterations' and/or Setting's general design, arrangement and composition of its elements; the scale and massing of the proposed changes relative to

- nearby Buildings and Structures; and the textures and materials of the features involved in the proposed Construction and/or Alterations, as well as the effects of same on the NCD;
  - iii. Setting and landscape characteristics, including their relationship to the street, topography and existing vegetation, including mature trees, of the particular site involved in the Construction and/or Alterations, as well as the effects of same on the NCD;
  - iv. for demolitions, the Building, Structure and/or Setting proposed to replace that/those existing; and
  - v. alterations necessary for handicap accessibility; and
  - vi. all such other standards, factors and matters contained in the Design Guidelines for the NCD.
- b. In making its determination, the NCD Commission shall, among other things,
- i. allow for appropriate architectural diversity and individualized Construction and/or Alterations while respecting the characteristics of the neighborhood, and
  - ii. encourage the compatible updating, expansion and renovation of Buildings and Structures in the neighborhood consistent with the foregoing.

**46A.7. Judicial Review, enforcements and lapse.**

- a. The Building Inspector shall be charged with the enforcement of this Bylaw. Anyone found in violation may be fined not more than \$300 dollars for each day such violation continues, each day constituting a separate offense.
- b. Any party dissatisfied with a determination may, within 45 days after the filing of the notice of such determination with the Building Inspector, the Zoning Board of Appeals, The Historical Commission and the Planning Board, file a written request with the NCD Commission for a review by a joint meeting with at least three members each of the Historical Commission and Planning Board. The findings of this joint committee, which may sustain or overrule the prior decision of the NCD Commission, shall be filed with the Building Inspector, the Zoning Board of Appeals, the Historical Commission and the Planning Board within 45 days after the close of the public hearing, and shall be binding on the applicant and the joint committee, unless a further appeal is sought in the Superior Court of Norfolk County.
- c. Certificates of Compatibility and Certificates of Hardship shall expire eighteen (18) months, plus such time as may be required to pursue or await the determination of a judicial review as provided above, from their date of issuance, if construction has not begun by such date. Notwithstanding the above, the NCD Commission may grant one or more extensions, of up to six (6) months each, if there are unavoidable delays.

**46A.8. Existing Bylaws not repealed.**

- a. Nothing contained in this bylaw shall be construed as repealing or modifying any existing bylaw or regulation of the Town, but it shall be in addition thereto. If this bylaw imposes greater restrictions upon the Construction and/or Alteration, of Buildings, Structures or Settings than other bylaws or provisions of law, such greater restrictions shall prevail.

**ARTICLE 46B. DENTON ROAD NEIGHBORHOOD CONSERVATION DISTRICT**

*(Section added ATM 2008.)*

**46B.1 Purpose of the Denton Road Neighborhood Conservation District.**

- a. This Bylaw enables the establishment of the Denton Road Neighborhood Conservation District (NCD) in the Town of Wellesley for the following purposes:
  - i. To recognize that the Denton Road Neighborhood, which dates back to the 1800's and which contains a variety of homes clustered along a tree-shaded, U-shaped street, is a distinctive neighborhood that contributes significantly to the diversity and character of Wellesley.

- ii. To promote conservation and preservation of its existing Buildings and Structures; to encourage compatible new construction that will complement existing Buildings, Structures, Settings and overall neighborhood character; and to foster appropriate reuse of and upgrades to Buildings and Structures.
  - iii. To provide residents and property owners with the opportunity to participate in planning the future of their neighborhood.
- b. This Bylaw will enable changing the Buildings, Structures, and Settings of Denton Road to meet the needs of current and future owners, without sacrificing the neighborhood's attractive qualities.
  - c. The NCD designation acknowledges Denton Road's distinctive architectural, aesthetic, historical, cultural, and social role in the development of the Town of Wellesley's character.

**46B.2 Boundaries of the Denton Road NCD. (Amended ATM 2009 Art. 40.)**

The Denton Road NCD shall comprise 23 properties bounded by 10 Denton Road on the East and 72 Denton Road on the West.

The owners of the following 19 properties fronting Denton Road have elected to participate in the NCD: 9, 10, 14, 15, 16, 19, 24, 28, 29, 31, 32, 44, 55, 56, 60, 61, 71, 72, and 75.

The owners of the following 4 properties fronting Denton Road have elected not to participate in the NCD at this time: 11, 39, 40, and 65 Denton Road.

**46B.3 Review authority of the Denton Road NCD Commission.**

- a. Membership of the Commission shall be in accordance with Article 46A, Section 4, Neighborhood Conservation District Commissions.
- b. The authority of the Denton Road NCD Commission shall extend to the review of all Construction, Demolition, or Alteration of exterior features on a property within the District visible from a public way, unless otherwise specified in this Bylaw, and review will follow the procedures described in Article 46 A, Section 5, Review of Construction and/or Alterations.
- c. As described in Article 46 A, Section 5 (d) (vii), the NCD Commission shall meet periodically with the Property Owners in the NCD for the purpose of determining whether or not the District's Guidelines are still appropriate, and shall send a report to the Historical Commission containing their findings. The first of these meetings shall occur two years from the date of the District's designation as an NCD, and shall occur at no less than five year intervals thereafter, unless this interval is changed by a majority vote of the Property Owners after the first two years.
- d. Recommendations for amendments to the District, including Guidelines, governance, procedural changes and geographical boundaries, must be approved by a majority of the District's Property Owners and the amendment procedures described in Article 46A, Section 3 (i) must be followed. Proposed changes approved by the Historical Commission and Planning Board must be approved by a majority vote of Town Meeting.

**46B.4 Determinations by the Denton Road NCD Commission.** Except as otherwise provided in Article 46 A or this Bylaw and its Guidelines, no Building, Structure, or Setting within the District shall be Constructed, Demolished, or Altered in any way unless the NCD Commission has first issued a Certificate of Compatibility, a Certificate of Hardship, or a Certificate of Non-Applicability.

- a. Exempt from review
  - i. Temporary Structures.
  - ii. Interior Alterations.
  - iii. Storm windows, storm doors and screens.
  - iv. Colors.
  - v. Accessory Structures of less than 120 square feet of floor area and less than 15 feet in height.

- vi. Skylights and solar panels.
  - vii. Exterior features of a Building or Structure and its Setting not visible from a public way or other area open to public access.
  - viii. The ordinary maintenance, repair or replacement in kind of Exterior Architectural Features and/or changes made to meet the requirements deemed necessary by the Building Inspector for public safety because of an unsafe or dangerous condition.
  - ix. Fences four feet high or less and their equal height entry gates measuring from the lowest grade on either side of the structure.
  - x. Handicapped-accessible ramps.
  - xi. Replacement of window(s) similar in size and style.
  - xii. Similar or in kind replacement of plant material.
  - xiii. Siding materials and trim.
- b. Subject to Review, All Construction, Alteration, or Demolition not exempted from review in 5 (a) are subject to review by the NCD Commission, and the Commission's determinations are binding. These determinations may contain conditions necessary to fulfill the terms of Section 7 of this Bylaw. Included are the following:
- i. Construction of a new Building or Structure.
  - ii. Demolition of an existing Building or Structure.
  - iii. Alteration or Construction of an Addition to an existing Building or Structure which requires a building permit.
  - iv. Alteration of the existing landscape by removal of significant shrubbery over 5 feet in height or trees over 8" in diameter.
  - v. Construction of a retaining or landscape wall or fence of four feet or more.
  - vi. Cut and fill of 3 feet or more.
  - vii. Addition of paving or creation of a new driveway.
  - viii. Exterior lighting that shines on adjacent properties.

#### 46B.5 The Review Process.

- a. Per description in Article 46 A, Section 5. (d), any person wishing to perform Construction, Alterations, or Demolition that require review shall first file an application with the NCD Commission for a Certificate of Compatibility, Certificate of Hardship, or Certificate of Non-Applicability in such form as the NCD Commission may reasonably determine. Materials required for a building permit and other information as may be reasonably deemed necessary by the NCD Commission to enable it to make a determination on the application may be requested of the applicant. The Commission, at its discretion, may waive certain required submission documents or steps in the review process. The date of the filing of an application shall be the date of the receipt of the application by the NCD Commission
- b. The Commission shall hold a Public Hearing within 45 days of the filing of a complete application for a Certificate of Compatibility, a Certificate of Hardship, or a Certificate of Non-Applicability, following the steps outlined in Article 46 A, Section 5 (d).
- c. If the NCD Commission fails to make a determination within 60 days after the close of the public hearing, or after any further time the applicant, in writing, may allow the NCD Commission, a Certificate of Compatibility shall be deemed granted, and the NCD Commission shall issue a Certificate of Compatibility.
- d. The NCD Commission shall file with the Building Inspector, Zoning Board of Appeals, Planning Board, and Historical Commission a copy of all Certificates of Compatibility, Certificates of Non-Applicability, Certificates of Hardship, and determinations of disapproval.

#### 46B.6 Criteria for NCD Commission Determinations.

- a. Specific Criteria for the Denton Road NCD. The following objectives are to be sought in considering applications for Certificates of Compatibility or Certificates of Hardship:
  - i. Conserving the diversity of styles and historic architectural character of the neighborhood, including the existing size and massing of abutting Buildings and Structures, as well as others elsewhere in the District.
  - ii. Conserving the diversity of styles and historic architectural character of the neighborhood, including the existing size and massing of abutting Buildings and Structures, as well as elsewhere in the District.
  - iii. Conserving the District's pattern of wood frame architecture.
  - iv. Allowing for architectural diversity and individualized alterations while reserving the traditional scale of the Buildings and Structures.
  - v. Encouraging the retention of mature landscape materials and the planting of trees and greenery to enhance the landscape amenities of the neighborhood.
  - vi. Preserving the existing grade, location and setback of Buildings and Structures to maintain the sightlines of the street.
  - vii. Encouraging the separation of properties by means of landscape planting rather than fencing.
- b. General Conservation Standards. All applications shall be considered with regard to the potential adverse effects of the Construction, Alteration or Demolition of an existing Building, Structure, or Setting on the abutters, the immediate streetscape, and the District as a whole. Consideration will also be given to:
  - i. The architectural or historical significance of the Building, Structure, or Setting, if any.
  - ii. The physical characteristics of the site, including, but not limited to, existing topography and vegetation.
  - iii. The use, if possible, of energy-conserving materials and techniques.
- c. Design Guidelines. In addition to (a) and (b) above, the Commission shall base its decisions on the following specific factors when considering Applications for Compatibility or Hardship:
  - i. Construction of a new Building or Structure. Review of the design of a new Building or Structure or addition to an existing Building or Structure shall be made with regard to the general compatibility of the building with its surroundings, and the following elements of the proposal shall be among those considered:
    1. Site layout.
    2. Volume and dimensions of the Building or Structure.
    3. Provision for open space and landscaping.
    4. The scale and massing of the Building or Structure in relation to its surroundings.
    5. Provisions for driveways and parking.
    6. The effect on the water table or subsoil conditions of adjacent properties.
  - ii. Alterations to an existing Building, Structure or Setting. Review of proposed Alterations or additions to an existing Building, Structure or Setting and of all features not exempted from review in 5. (a) shall be made with regard to the following factors:
    1. The architectural or historical significance of the Building or Structure to be altered. The extent to which the integrity of the original design or style has been retained or previously diminished.

2. The potential adverse effect of the Alteration of, or proposed addition to the existing Building or Structure on the neighboring properties, the immediate streetscape and on the District as a whole.
- d. Demolition Guidelines. In evaluating an application to demolish a Building or Structure, the Commission shall review and consider the following factors:
    - i. The architectural or historical significance of the Building or Structure of which any portion is to be demolished, giving consideration to its possible eligibility for listing on the National Register of Historic Places.
    - ii. The physical condition of the Building or Structure and its subsoil conditions, if applicable.
    - iii. A claim of substantial hardship, financial or otherwise.
    - iv. The design of any replacement Building(s) or Structure(s).

**46B.7 Judicial Review, Enforcement and Lapse.**

- a. The Building Inspector shall be charged with the enforcement of this Bylaw. Anyone found in violation may be fined not more than \$300 dollars for each day such violation continues, each day constituting a separate offense.
- b. Any party dissatisfied with a determination may, within 45 days after the filing of the notice of such determination with the Building Inspector, the Zoning Board of Appeals, The Historical Commission and the Planning Board, file a written request with the NCD Commission for a review by a joint meeting with at least three members each of the Historical Commission and Planning Board. The findings of this joint committee, which may sustain or overrule the prior decision of the NCD Commission, shall be filed with the Building Inspector, the Zoning Board of Appeals, the Historical Commission and the Planning Board within 45 days after the close of the public hearing, and shall be binding on the applicant and the joint committee, unless a further appeal is sought in the Superior Court of Norfolk County.
- c. Certificates of Compatibility and Certificates of Hardship shall expire eighteen (18) months, plus such time as may be required to pursue or await the determination of a judicial review as provided above, from their date of issuance, if construction has not begun by such date. Notwithstanding the above, the NCD Commission may grant one or more extensions, of up to six (6) months each, if there are unavoidable delays.

**46B.8 Existing Bylaws not repealed.** Nothing contained in this bylaw shall be construed as repealing or modifying any existing bylaw or regulation of the Town, but it shall be in addition thereto. If this bylaw imposes greater restrictions upon the Construction and/or Alteration, of Buildings, Structures or Settings than other bylaws or provisions of law, such greater restrictions shall prevail.

**ARTICLE 46C. HISTORIC PRESERVATION DEMOLITION REVIEW**

*(New ATM 2017.)*

**46C.1 Purpose.** This Article is adopted by the Town to assure the preservation and enhancement of the Town of Wellesley's historical and cultural heritage by preserving, rehabilitating or restoring whenever possible, buildings that have distinctive architectural features or historical associations that contribute to the historic fabric of the Town.

**46C.2 Definitions.** For the purposes of this Article, the following words and phrases have the definitions set forth next to them:

**“Application”:** An application to the Commission for a Demolition review determination of a Building in accordance with the provisions of this Article that shall include the following information supplied by the Owner: (i) the name of each Owner (including of the underlying property, if different from the Owner of the Building), (ii) the address of the Building, (iii) an indication whether the Owner is seeking a full or partial Demolition, (iv) the earliest date that the Owner believes the Building, or any part thereof, was constructed, and (v), if the Owner is seeking a partial Demolition, non-certified plans and drawings showing such proposed partial Demolition.

**“Article”**: This Article 46C of the Town Bylaws.

**“Building”**: Any combination of materials forming a shelter for persons, animals or property located in the Town of Wellesley that is larger than 100 square feet.

**“Change of Control”**: As defined in Section 46C.4(f)(ii).

**“Commission”**: The Wellesley Historical Commission.

**“Commission Staff”**: The person(s) regularly providing staff services for the Commission who the Commission has designated to perform tasks for the purposes of this Article and who shall be located in Town Hall. All communication with the Commission shall, unless otherwise specified in writing by the Commission, be done through the Commission Staff.

**“Delay Period”**: As defined in Section 46C.4(c)(ii).

**“Demolition”** or **“Demolish(ed)”**: With respect to a Building regardless of whether another Building is constructed within the original footprint of such Building, the (i) pulling down, razing or destruction of the entire Building or (ii) the removal or envelopment of 50% or more of the existing exterior structure of the Building as determined in Section 46C.4(b), provided that, any non-structural changes to the siding or roofing of a Building shall not constitute a Demolition for purposes of this Article.

**“Demolition Permit”**: Any permit issued by the Inspector of Buildings that is required by the State Building Code and which authorizes the Demolition of a Building (excluding interior Demolition) regardless of whether such permit is called a demolition permit, alteration permit, building permit, etc.

**“Effective Date”**: ~~July 1, 2017 at 12:01 a.m., Eastern Standard Time.~~ August 15, 2017 at 12:01 a.m., Eastern Standard Time.

**“Eligibility Notice”**: As defined in Section 46C.4(b).

**“Eligible Building”**: Any Building that requires a Demolition Permit in order to be Demolished that was built, in whole or in part, on or prior to December 31, 1949 and that is or was at any point during the three (3) years preceding an Application, a dwelling as defined and regulated under the State Building Code. Notwithstanding the foregoing, Buildings owned by the Town of Wellesley and dormitories and residence halls owned by educational institutions used to house students or staff are not considered Eligible Buildings for purposes of this Article.

The determination of what constitutes a Building’s date of construction shall be made by the Commission Staff using any combination of records generally available to the public, including but not limited to, Board of Assessor’s records (e.g., property record cards), Building Department records (e.g., building permits), applicable Registry of Deeds (e.g., deeds), and the Wellesley Townsman archives.

**“Inspector of Buildings”**: The Town of Wellesley’s Inspector of Buildings.

**“Owner”**: With respect to a Building that is the subject of this Article, the owner(s) of record, determined to be the last grantee(s) of record on file with the applicable Registry of Deeds.

**“Preferably Preserved”**: A Building should be preferably preserved if it is an Eligible Building, the Demolition of which that is proposed in the Application would be detrimental to the historical or architectural heritage of the Town because such Building is (i) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America, (ii) historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of Buildings, or (iii) located within one hundred fifty (150) feet of the boundary line of any federal or local historic district and contextually similar to the Buildings located in the adjacent federal or local historic district.

**“Preservation Determination”**: As defined in Section 46C.4(c)(ii).

**“Public Hearing”**: As defined in Section 46C.4(e)

**“Submission Date”**: As defined in Section 46C.4(a).

**“Waiver Hearing”**: As defined in Section 46C.4(d)(i).

#### 46C.3 Applicability and interpretation.

- a. Applicability. Commencing on the Effective Date, no Demolition Permit for an Eligible Building shall be issued by the Inspector of Buildings without first complying with the provisions of this Article. After complying with the provisions of this Article, any request to the Inspector of Buildings for a Demolition Permit shall, along with all other documents required by the Inspector of Buildings, be accompanied by the Eligibility Notice and/or the Preservation Determination. Unless otherwise noted, all days are calendar days. An Owner may be represented for all purposes under this Article by the Owner's duly authorized agent or representative.
- b. Damage and Reconstruction. Subject to Section 46C.7, this Article does not apply to the reconstruction of a Building that was damaged or destroyed by fire, storm, or other disaster, provided that (a) such damage or destruction is not caused by the owner or their agents or representatives' negligence or willful misconduct, including but not limited to, with respect to securing the Building, and (b) such reconstruction is commenced within two (2) years from the date of the damage or destruction and is conducted at a commercially reasonable pace. This exception shall be limited to reconstruction of only that portion of the Building damaged by such catastrophic event. Time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two-year limit. (Amended ATM 2018.)
- c. Validity of Commission's Determination. A Preservation Determination shall remain valid, if Preferably Preserved, for two years after the expiration of the Delay Period, or if not Preferably Preserved, for two years after the Preservation Determination. While valid, the Inspector of Buildings may act upon a request for a Demolition Permit without regard to the provisions of this Article.

#### 46C.4 Procedure.

- a. Application. An Owner seeking to Demolish a Building shall first file an Application with the Commission Staff. The Commission Staff will date stamp the Application (the "**Submission Date**") and provide the Owner with a stamped acknowledgement copy of the first page of the Application.
- b. Determination if an Eligible Building.
  - i. Determination. Within five (5) business days after the Submission Date, the Commission Staff shall make a determination as to whether the Building is or is not an Eligible Building and shall send written notice of such determination to the Owner (the "**Eligibility Notice**"). The Eligibility Notice shall include instructions to the Owner on its permissible next steps.
  - ii. Appeal. The determination made in the Eligibility Notice may be appealed by the Owner to the Commission by filing a written notice of appeal with the Commission within twenty (20) days after the date of the Eligibility Notice. The Owner shall include all relevant reasons and documentation supporting its appeal. The Commission shall schedule a Public Hearing for a date not later than forty-five (45) days after the Commission's receipt of the notice of appeal. Within ten (10) days following the conclusion of such hearing, the Commission shall provide written notice of its determination to the Owner.
- c. Determination if Preferably Preserved.
  - i. Documentation Requirements. Upon the Owner's receipt of the Eligibility Notice that indicates that the Building is an Eligible Building and the exhaustion of the appeal process provided for in Section 46C.4(b)(ii) above, the Owner shall provide the Commission with the following additional information:
    1. in the case of a partial Demolition, plans showing the use or development of the site after such Demolition, if known, and a statement identifying all zoning variances and/or special permits which may be required in order to implement the proposed use or development, if known; and
    2. in the case of any Demolition, photographs of all existing façade elevations of the Building.

- ii. Hearing and Determination. Within forty-five (45) days following the Commission's receipt of the documentation required pursuant to Section 46C.4(c)(i) above, the Commission shall hold a Public Hearing and make a determination as to whether or not the Building should be Preferably Preserved (the "**Preservation Determination**"). If the Commission determines that the Building should be Preferably Preserved, then no Demolition Permit with respect to such Building shall be issued until twelve (12) months after the date of the Preservation Determination (the "**Delay Period**"), provided that, the length of the Delay Period may be reduced pursuant to Section 46C.4(d) below. If the Owner does not provide to the Commission all documentation required by Section 46C.4(c)(i) above within ninety (90) days of (i) the Owner's receipt of the Eligibility Notice or (ii) if the Owner has elected to appeal pursuant to Section 46C.4(b)(ii) above, the conclusion of any appeal period, then the Application shall be automatically withdrawn.
  - iii. Continuances. The Commission and the Owner may mutually agree to continue any hearing at which the Commission is to make the Preservation Determination. Any such continuances shall automatically extend the time for the Commission to make the Preservation Determination and all associated dates that fall thereafter.
  - iv. Notice of Preservation Determination. Within ten (10) days of making the Preservation Determination, the Commission shall send written notice of such determination to the Owner.
  - v. Appeal. The determination made in the Preservation Notice may be appealed by the Owner to any court of competent jurisdiction in the Commonwealth of Massachusetts.
- d. Reduction in Length of Delay Period (Waiver Process).
- i. Earlier Issuance. After a Delay Period has been imposed, an Owner may apply to the Commission for a reduction of the Delay Period. Within forty-five (45) days following the Commission's receipt of such request, the Commission shall schedule a Public Hearing and make a determination as to whether or not to reduce or modify the Delay Period (the "**Waiver Hearing**"). At the Waiver Hearing, the Commission may consider whether the Owner has:
    1. made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the Building who is willing to preserve, rehabilitate or restore the Building; or
    2. agreed to accept a Demolition Permit on specified conditions approved by the Commission. If the specified conditions involve approved plans and elevations, then no Demolition Permit shall be issued by the Inspector of Buildings unless the Owner provides to the Inspector of Buildings a complete set of plans and elevation drawings which have been signed and stamped by the Commission, provided, however, that if such plans and elevations are subsequently modified, no copy signed and stamped by the Commission shall be required if such modifications do not substantially alter the plans and elevations previously approved by the Commission.
  - ii. Notice. The Waiver Hearing shall remain open until closed by the Commission, provided that, if the Waiver Hearing is still open on the date that the Delay Period expires, the Waiver Hearing shall be automatically closed on that date without any further action of the Commission or Owner. Within fifteen (15) days after the Commission has closed the Waiver Hearing, the Commission shall provide to the Owner written notice of its determination or a summary of the Owner and the Commission's agreed-upon plans with respect to the Delay Period and the Building.

- e. Hearing Notice Requirements. Public notice of all Commission hearings conducted in accordance with this Article (each, a “**Public Hearing**”) shall provide the date, place and time of the Public Hearing and the address of the Building. With respect to each such notice, the Commission shall, at least fourteen (14) days prior to the date of the Public Hearing, (i) advertise once in a newspaper of general local circulation, (ii) post it with the Town Clerk and (iii) send it by regular United States Postal Service mail to the Owner and to the owners of all abutting properties of the Building. The Commission may also send such notice to other property owners deemed by the Commission to be materially affected by the Application.
- f. Transferability.
  - i. Requirement to Submit New Application. Once a Building is deemed Preferably Preserved, if, prior to the expiration of the Delay Period, ownership (whether of record, legal, beneficial or otherwise) in the Building or underlying property is transferred, directly or indirectly, in whole or in part, by the Owner to any other person, irrespective of whether the Owner retains any ownership interest therein or rights thereto, the transferee must submit a new Application pursuant to the procedures of this Article. During the period that such new Application is under review by the Commission, the existing Delay Period shall remain in effect. If the Commission determines that the Building is Preferably Preserved, a new Delay Period shall be implemented for the full twelve (12) months, commencing on the date that the Commission makes such new Preservation Determination; the previously-existing Delay Period shall thereafter immediately terminate.
  - ii. Owner. For purposes of Section 46C.4(f)(i) above, a transfer shall (1) not include transfers done for purposes of estate planning by the Owner, and (2) in addition to the types of transfers noted in Section 46C.4(f)(i) above, be deemed to occur upon a Change of Control of the Owner. “**Change of Control**” means, regardless of the form thereof, consummation of (1) the dissolution or liquidation of the Owner, (2) the sale of all or substantially all of the assets of the Owner on a consolidated basis, (3) a merger, reorganization or consolidation in which the outstanding equity interests of the Owner are converted into or exchanged for securities of the successor entity and the holders of the Owner’s outstanding voting power immediately prior to such transaction do not own a majority of the outstanding voting power of the successor entity immediately upon completion of such transaction, (4) the sale or other transfer of all or a majority of the outstanding equity or beneficial interests (or such other amount necessary to control the Owner) of the Owner or (5) any other transaction in which the holders of the Owner’s outstanding voting power immediately prior to such transaction do not hold at least a majority of the outstanding voting power (or such other amount necessary to control the Owner) of the Owner or the successor entity immediately upon completion of the transaction.

46C.5. Emergency Demolition.

If the Inspector of Buildings determines that a Building poses an imminent threat to public health and safety and that immediate Demolition of the Building is warranted, the Inspector of Buildings may issue a Demolition Permit without requiring compliance with the provisions of this Article. Whenever the Inspector of Buildings issues a Demolition Permit under the provisions of this Section 46C.5, it shall prepare and file with the Commission a written report describing the Demolition of the Building and the basis of its decision to issue such Demolition Permit.

46C.6 Non-Compliance.

Anyone who effects, or begins to effect, a Demolition of an Eligible Building without first complying fully with the provisions of this Article shall be subject to a fine of not more than three hundred dollars (\$300.00) for each day in violation of this Article.

In addition, unless a Demolition Permit issued in accordance with this Article is obtained and unless the Demolition Permit is fully complied with, including full compliance with plans and elevation drawings signed and stamped by the Commission, the Inspector of Buildings may elect, and the Commission may request the Inspector of Buildings to, (1) issue a stop work order halting all work on the Building unless and until the Commission notifies the Inspector of Buildings in writing that the Owner has appeared before the Commission

to address such non-compliance, and the Commission has accepted the Owner's plans to remediate such non-compliance; (2) refuse to issue any certificates of occupancy, temporary or final, until any non-compliance has been remediated; and/or (3) refuse to issue any permit required by the State Building Code pertaining to any property on which an Eligible Building has been Demolished, or such Demolition was commenced, for a period of two (2) years from the date of such Demolition, provided that this provision shall not prevent the Inspector of Buildings from issuing any permit required to insure the safety of persons and property. The Inspector of Buildings shall give prompt written notice to the Commission of any action taken or refused to be taken pursuant to this Section 46C.6.

Notwithstanding the first two paragraphs of this Section 46C.6, upon a determination by the Commission that reuse of the property in accordance with building plans prepared by the Owner and submitted to the Commission (and all other relevant Town boards and departments) will substantially benefit the Town, the neighborhood in which the Building is situated, and will provide compensation for the loss of the historic elements of the Building either through reconstruction of the lost historic elements or significant enhancement of the remaining historic elements of the Building or the surrounding neighborhood, the Commission may waive the fine, in whole or in part, and/or the Inspector of Buildings' ban on issuance of any permits as provided for in this Section 46C.6, in order to allow for the construction or reconstruction of a Building or architectural elements as approved by the Commission. An Owner receiving such a waiver of the fine and/or ban shall execute a binding agreement with the Commission enforceable against all of the Owner's heirs, assigns and successors in interest to insure that any reuse of site undertaken during the two-year ban shall be implemented in accordance with the plans, terms and conditions approved by the Commission. Any reuse of the site undertaken during the two-year ban which fails to comply with the terms of the Commission's approval granted under this Section 46C.6 shall also permit reinstatement of the fine for non-compliance with this Article.

#### 46C.7 Securing Buildings.

- a. Rebuttable Presumption. If a Building has been determined by the Commission Staff or Commission, respectively, to be (1) an Eligible Building and is subsequently destroyed (in whole or in part) by fire or other cause before a Preservation Determination is made, or (2) Preferably Preserved and is subsequently destroyed (in whole or in part) by fire or other cause before the expiration of the Delay Period, then in each such case a rebuttable presumption shall arise that the Owner voluntarily Demolished the Building without complying with the provisions of this Article.
- b. Non-issuance of Permits. If the rebuttable presumption has arisen, the Inspector of Buildings shall not issue any permit required under the State Building Code pertaining to the Building, with respect to Section 46C7(a)(1) above, for a period of two (2) years from the date of such destruction, and with respect to Section 46C.7(a)(2) above, until the end of the Delay Period.
- c. Exceptions. Notwithstanding anything to the contrary in this Section 46C.7, the Inspector of Buildings may issue any permit required under the State Building Code pertaining to the Building (a) as may be necessary to secure public safety or health or (b) if the Owner has provided satisfactory evidence to the Inspector of Buildings that (i) such Owner took reasonable steps to secure the Building against fire or other loss, (ii) the cause of the destruction was not due to the Owner's negligence or willful misconduct, or (iii) the Wellesley Fire Department or Massachusetts State Fire Marshall makes a determination that the cause of the destruction cannot be determined.

#### 46C.8 Buildings Located in Other Districts.

The provisions of this Article shall not apply to any Building located in a (i) local historic district established pursuant to M.G.L. C. 40C and subject to regulation by the local historic district commission under the provision of Section 14D. HISTORIC DISTRICTS of the Zoning Bylaw or (ii) Neighborhood Conservation District established pursuant to Article 46A of the Town Bylaws.

46C.9 Severability. In case any section, paragraph, or part of this Article is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, or part of this Article shall continue in full force and effect.

46C.10 Enforcement. The Commission is authorized to institute any and all actions and proceedings, in law or in equity, in any court of competent jurisdiction, as it deems necessary and appropriate to obtain compliance with the requirements of this Article.

46C.11 Fees. Any Owner whose Application is subject to this Article shall pay such fees as shall be determined by the Commission.

46C.12 Rules and Regulations. The Commission may promulgate or amend Rules and Regulations (“**Rules**”) which pertain to this Article, and shall file a copy of the Rules in the office of the Town Clerk. The adoption or amendment of Rules shall be after a Public Hearing to receive comments on the proposed or amended Rules.

(ATM 2017.)

## **ARTICLE 47. ANIMAL CONTROL REGULATIONS**

(Replaced ATM 2018.) (See Article 52 for violation fines.)

47.1. Purpose. Pursuant to the authority set forth in G.L. c. 140, §§ 136A-174E, inclusive, and any other relevant statutes and regulations issued pursuant thereto, this section is adopted by the Town for the control and regulation of dogs within the Town.

47.2. Definitions. The definitions of words and terms set forth G.L. c. 140, § 136A are incorporated into Article 47 and shall be applicable herein.

47.3. Administration.

- a. The Board of Selectmen shall annually appoint an Animal Control Officer who shall be responsible for the enforcement of this bylaw and the General Laws relating to the regulation of animals.
- b. For purposes of this bylaw and G.L. c. 140, § 157, the Executive Director shall be the Hearing Authority.

47.4 Registration and License Requirements for Dogs.

- a. In accordance with G.L. c. 140, § 137, the owner or keeper of a dog six months of age or older, while residing in the Town of Wellesley, shall obtain a license (either individual or kennel) for the dog from the Town Clerk, which shall be affixed to the dog’s collar. To obtain or renew a license, each dog owner or keeper shall annually present proof of a current rabies vaccination or a certification of exemption from the vaccination requirement, pursuant to G.L. c. 140, § 137(b) and 145B.
- b. All dogs within the Town shall be licensed and registered and the fees for such license and registration shall be established by the Town Meeting from time to time in accordance with G.L. c. 140, § 139. Fees for the issuance of licenses for dogs shall be:

	<u>Fee</u>
1) Males and Females:	\$20
2) Neutered Males and Spayed Females:	\$12
3) Service Animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder:	No fee.
4) Kennels with 4-6 Dogs:	\$75
5) Kennels with 7-10 Dogs:	\$100
6) Kennels with 11 or more Dogs:	\$150

- c. Dog owners and keepers shall renew each dog license annually. The annual licensing period runs from April 1 through March 31.
- d. Kennels. All kennels within the Town of Wellesley shall be licensed, operated, maintained and regulated in accordance with G.L. c. 140, §§ 137A-137D and any other applicable statute or regulation.

47.5. Policies and Procedures. The Selectmen shall from time to time adopt and publish such policies and procedures as they deem necessary to enforce the intent and purpose of this Bylaw.

47.6. Conduct of Dogs.

- a. Nuisance and Dangerous Behavior. No dog owner or keeper shall permit the dog to become or remain a nuisance dog or a dangerous dog, as those terms are defined and used in G.L. c. 140, §§ 136A and 157.
- b. Leash Law. When not on the private property of its owner or keeper, or on private property with express permission of that property's owner, a dog shall be on a leash of not more than seven (7) feet.
- c. Dogs on Town Property. Any dog on the street or sidewalk in the Town of Wellesley shall be on a leash of not more than seven (7) feet. Any dog, while on any other property owned or controlled by the Town of Wellesley, shall remain under the control of its owner or keeper in the manner prescribed by the regulations promulgated by the board, commission or officer having authority or control of said property.
- d. Service Animals. The provisions of Articles 47.6.b and 47.6.c shall not apply to any properly trained assistance or service animal while performing its duties.

47.7. Animal Control Officer.

- a. Complaint Investigation. The Animal Control Officer shall investigate all written complaints arising within the Town pertaining to violations of Article 47 and of G.L. c. 140, §§ 136A-174E and any relevant state or local regulations.
- b. Issuance of Temporary Restraint Orders. The Animal Control Officer may issue a Temporary Restraint Order to the owner or keeper of any dog that is alleged to be a nuisance dog or a dangerous dog and is awaiting a decision under Article 47.8. A Temporary Restraint Order shall be in force for no more than thirty (30) days unless the Animal Control Officer renews it in writing for a subsequent thirty (30) day periods. The Animal Control Officer may rescind or stop renewing the order when, in the Animal Control Officer's judgment, restraint is no longer required. The Animal Control Officer's order shall expire upon receipt of a decision from the Board of Selectmen on the nuisance dog or dangerous dog hearing.
- c. Issuance of Temporary Confinement Order. The Animal Control Officer may make arrangements for the temporary housing of any dog that requires such temporary housing, and may issue an Order of Temporary Confinement authorizing such temporary housing. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns, and shall be at the dog owner's or keeper's expense.
- d. Record Keeping. The Animal Control Officer shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody, all bite cases reported, and the results of investigations. The Animal Control Officer shall maintain a telephone log of all calls received regarding dogs and submit a monthly report summarizing the log to the Board of Selectmen.

47.8. Nuisance or Dangerous Dog Hearings. Any person may file a complaint in writing to the Board of Selectmen that a dog owned or kept in the Town is a nuisance dog or a dangerous dog. All such complaints shall be investigated and addressed in accordance with G.L. c. 140 § 157.

47.9. Violations and Penalties.

- a. The failure of the owner or keeper of any dog or pet to comply with this bylaw or with any order of the Animal Control Officer or the Board of Selectmen shall be a violation of this bylaw.
- b. The failure of the owner or keeper of any dog to comply with the registration and license requirements provided in this Article 47 and in G.L. c. 140, §§ 136A-174E shall be in violation of this bylaw.
- c. In addition to any other remedy provided by law, this Article may be enforced by the Animal Control Officer, or any police officer of the Town, or the Board of Selectmen, through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c. 40, § 21, noncriminal disposition in accordance with G.L. c. 40, § 21D and the Article 52.1, "Non-Criminal Disposition, as may be amended from time to time. When enforced in accordance with G.L. c. 40, § 21, the maximum penalty shall be \$300 and each day a violation exists shall constitute a separate violation.

- d. If the Animal Control Officer confines a dog and the dog owner or keeper does not pay all fees directly to the kennel or veterinary clinic, then the dog's owner or keeper shall be required to reimburse the Town for any expenses incurred in boarding that dog. If the dog has not been licensed, the owner or keeper shall obtain a license and pay any applicable fine before the dog can be released.
- e. Violation of Nuisance Dog or Dangerous Dog Order. An owner or keeper of a dog who fails to comply with an order of the Selectmen or district court issued pursuant to G.L. c. 140, § 157A shall be punished as provided in that statute;

#### **ARTICLE 48. CEMETERY FUND REGULATIONS**

48.1. Deposits. The Town will accept and hold in trust any money or securities which may be deposited with the Town Treasurer for the preservation, care, improvement, or embellishment of any public or private burial place situated in the Town or any lots or graves situated in such burial places.

48.2. Cemetery Fund. Money and securities received under Section 48.1. shall not be mingled with other money or securities of the Town, but shall be kept and invested separately as a Cemetery Fund.

48.3. Investment and Expenditure. The Town Treasurer shall invest and expend such funds in accordance with the stipulations, if any, accompanying them. Otherwise The Town Treasurer shall invest them in accordance with guidelines and criteria as provided in Article 19. Board of Selectmen, Section 19.5.3. Investment of Town Funds.

48.4. Statutory Authority. The provisions of this Article shall be interpreted and implemented consistently with the provisions of the General Laws, particularly Chapter 114.

#### **ARTICLE 49. POLICE REGULATIONS**

*(Amended ATM 2018.)*

49.1. Trespassing. No person shall enter upon the premises of another in the Town for the purpose of committing any wanton or malicious act or with intent to invade the privacy of another by peeping into the windows of a house or spying upon any person or persons resident therein. Nothing contained in this section shall be construed to abridge or in any way limit the right of a police officer to enter upon private property in the performance of their official duties.

49.2. Use of Public Ways and Places. No person shall throw, place or cause to be placed in any public way or public place in the Town, any tree, bush or other planting, or any obstruction, or any garbage, fuel, building material, paper, cards, handbills, leaves, or rubbish of any kind, nor stones or rocks or other objects to act as curbing, except in such place and in such manner as shall be directed by the Selectmen and except as hereinafter provided in Section 49.2A.

49.2A. Printed Matter Vending Machines in Public Ways and Places. No person shall place, install, use or maintain a vending machine for the purpose of distributing printed matter in a public way or place except according to regulations for the same as shall be promulgated by the Board of Selectmen. Said regulations may include but shall not necessarily be limited to dimensional and design criteria; siting requirements; insurance and indemnification; and administrative fees and review process. Whoever violates any provisions of this bylaw or the regulations promulgated by the Board of Selectmen under the authority hereof shall be liable for a fine of \$10.00 for each offense, each day any violation continues to constitute a separate offense.

49.2B Retail Hours of Operation.

- a. Subject to such other restrictions as may be applicable, no retail business establishment shall be open for business for the sale of goods or services to the public at retail, nor shall any retail business establishment sell any goods or services to the public at retail, between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m. unless both,
  - i. the floor area of such retail business establishment devoted to the display and sale to the public of retail goods or services contains 6,000 usable square feet or less; and

- ii. the Board of Selectmen, upon such terms and conditions as they may deem appropriate, has granted to the owner and/or operator of such retail business establishment a license under this bylaw to remain open for such night-time hours in order to serve the public necessity or convenience.
- b. The Board of Selectmen shall not grant to the owner and/or operator of a retail business establishment a license under this bylaw to be open to the public for business between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m., unless the Board of Selectmen shall have made the following specific findings with respect to such establishment:
  - i. That such night-time hours of operation by such establishment will not cause unreasonable disruption, or disturbance to, or otherwise adversely affect, the customary character of any adjacent or nearby residential neighborhoods;
  - ii. That such night-time hours of operation are reasonably necessary to serve a public need or person to provide a convenience to the public that outweighs any increase in any of the following impacts on the adjacent or nearby residential neighborhood (or the character thereof) that are likely to result from such retail business establishment being open for such night-time hours: noise, lighting, vibration, traffic congestion, or volume of pedestrian or vehicular retail customer traffic; risk to pedestrian or vehicular safety, accident potential or other public safety impacts, or any other adverse safety impact.
- c. The Board of Selectmen may adopt rules and regulations to govern the administration of the licensing process, and in so doing may impose such terms and conditions upon granting such license as it may consider to be appropriate.
- d. This bylaw shall not be interpreted to prohibit emergency motor vehicle services from operating during such night-time hours or require any emergency vehicle services to obtain a license under this bylaw in order to be permitted to operate during such night-time hours.
- e. This bylaw shall not apply to, nor shall be interpreted to require a license under this bylaw for the operation during such night-time hours by, any of the following retail business establishments:
  - i. any restaurant or food service establishment engaged in the sale of food or alcoholic beverages to be consumed on the premises at which they are sold or to be consumed off the premises at which they are sold when such sale is by a licensed common Victualler primarily engaged in the sale of food to be consumed on such premises.
  - ii. any retail business establishment that as of March 27, 1995 was regularly open to the public for retail sales between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m., provided however, that if from and after such date any such establishment (A) increases its hours of operation during such night-time hours beyond those hours of operation being conducted as of March 27, 1995, or (B) changes the manner of conduct of its retail business in any way that differs materially from the manner of conduct of such business as of March 27, 1995, and (C) the Board of Selectmen determines that as of a result of any such increase or change, the nature or character of the business conducted by such retail business establishment has become substantially more detrimental to the adjacent or nearby residential neighborhood than was the business being conducted by such retail business establishment as of March 27, 1995, then the Board of Selectmen shall be authorized to determine that the provisions of this bylaw shall apply to such retail business establishment, in which case such establishment shall be entitled to be open for business during such night-time hours only if it complies with the provisions of Section 49.2B(a) above. For purposes of determining whether any such increase or change has been "substantially more detrimental" the Board of Selectmen shall analyze such increase or change in light of the impacts described in Section 49.2B(b)(2) above.
- f. Whoever violates any provision of this bylaw shall forfeit and pay a fine of three hundred dollars (\$300) for each offense, and each calendar day on which any violation occurs shall constitute a separate offense.
- g. The Board of Selectmen may, in addition to imposing the fines provided herein, secure injunctive relief to prohibit any such operation not grandfathered or properly licensed as provided in Sections (b) or (e) hereof.

49.2C Preparation and/or retail sale of food or beverage. (New section ATM 2006.)

- a. The Board of Selectmen may grant licenses to persons whose principal business is to prepare and sell food or beverage at retail who are not otherwise licensed as a common Victualler. No person who is eligible for such license shall conduct said business without being so licensed. This bylaw shall not require the Selectmen to grant said license if, in their opinion, the public good does not require it. For these purposes, in determining whether the public good is served, the Selectmen shall ascertain whether the traveling public will be inconvenienced in its use of the public ways and sidewalks, whether the business has sufficient parking, and whether the public safety is protected. The fee for such license shall be determined from time to time by the Board of Selectmen after a public hearing. (Amended ATM 2013.)
- b. The Board of Selectmen may adopt rules and regulations to govern the administration of the licensing process, and in doing so may impose such terms and conditions upon granting such license as it may consider to be appropriate.

Provided, any person conducting said principal business as of the day this bylaw takes effect may continue to do so for up to 90 days, by the end of which time said business shall be discontinued unless a license has by then been issued. In entertaining an application the Selectmen shall apply the standards set forth in Bylaw 49.2C insofar as is practicable considering that the applicant has been operating prior to the Town enacting said bylaw.

49.3. Excavation in Streets and Sidewalks. No person except the Director of Public Works in the performance of their duties shall break or dig up or cause to be broken or dug up the pavement or ground in any public street or any sidewalk or ground or curbing in any public street without the permission in writing of the Board of Public Works, nor having obtained such permission, shall fail to comply with the conditions thereof. The Board of Public Works may give such permission on the first business day following the commencement of any excavation required by an emergency and made by a department of the Town or a corporation engaged in the manufacture, transmission or distribution of gas, electricity, or intelligence transmitted by electricity. In this case, the rights granted by and conditions contained in such permission shall apply to all acts of such department or corporation in making the excavation. In addition to any penalty to which an excavator may be subjected under these bylaws for such failure, they shall also reimburse the Town for all expenses and damages which the Town may be compelled to pay by reason of such unauthorized use or any failure to comply with said conditions.

49.4. Fire on Streets. No person shall make any fire in any street in the Town except under the authority of the Director of Public Works and the Chief Engineer of the Fire Department.

49.5. Ice and Snow on Streets. No person shall plow or shovel, lay, throw or place, or cause to be laid, thrown or placed (either by one's own action or by the actions of a plowing contractor or other agent) any ice or snow on any street or sidewalk in the Town which has been cleared or plowed for travel. (Amended ATM 2006.)

49.6. Removal of Vehicles. The Director of Public Works, or other officer having charge of ways, for the purpose of removing or plowing snow, or removing ice, from any way, may remove or cause to be removed to some convenient place, including a public garage, any vehicle interfering with such work. The owner of such vehicle shall be liable for the reasonable cost of such removal and storage charges.

49.7. Playing in or Across Public Ways. No person shall throw stones, snowballs, sticks, or other missiles, or kick or throw a football, or play at any game in which a ball is used, or fly any kite or balloon, or shoot with or use a bow and arrow, gun, air-gun, or sling, in or across any public way in the Town.

49.8A. Mutilation of Plants. No person shall, without lawful authority, remove, cut, deface, mutilate or apply paint to any tree, bush, flower or plant growing on land held under the jurisdiction of any Town board.

49.8B. Replacement of Public Shade Trees. Any person, firm, corporation or agency that in the course of construction or subdivision development wishes to remove any living Public Shade Tree with caliper 2 1/2" or greater in diameter at 5' above grade level shall, in accordance with Chapter 87 Section 3 of the Massachusetts General Laws, obtain a permit from the Natural Resources Commission as Tree Warden; and, if removal is permitted, shall at no cost to the Town, within the spring or fall months following completion of

construction, replace in locations specified by the Tree Warden a number of smaller trees determined to be equivalent on the following basis:

The total caliper of all replacement trees shall equal or exceed the total caliper of all trees to be removed. Replacement trees shall be balled and burlapped and of caliper not less than 2 1/2" in diameter at 5' above grade level. Species, caliper and location of replacement trees shall be determined by the Tree Warden at the time of issuance of the permit.

The Tree Warden may require a bond, escrow account, irrevocable letter of credit, or other surety to ensure Public Shade Tree replacement. Such surety may be held for one year from the date of planting to ensure survival of the replacement trees. At the option of the applicant, the Town may, upon payment of an agreed upon sum, replace said trees according to the standards herein set forth.

49.9A. Use of Firearms and Air-Guns. No person shall fire or discharge any firearm or air-gun in or across any street in the Town, or on any property of the Town, or on any private property in the Town without the written permission of the owner or tenant of such private property, but in no event shall such firearm or air-gun be fired or discharged within 500 feet of a public street or a dwelling or other occupied building other than a dwelling or building owned or occupied by the person entitled to give such permission. This section shall not apply to the use of such weapons in the performance of a legal duty or military exercise or in the lawful defense of the person, family or property of any citizen. (*Amended ATM 2018.*)

49.9B. Use of Traps. No person shall use, set, place or maintain any type of leghold, steel-jaw, Conibear, or padded jaw trap within the limits of any highway, street, park, or other public property of the Town, or on any private property except with the written consent of the owner or legal occupant or person having the right of control thereof.

49.9C. Any person violating this Section shall be subject to a fine of not less than three hundred dollars (\$300) for each offense, and each trap in violation of paragraph 49.9B shall constitute a separate offense.

49.10. Nude Bathing. No person in the nude shall bathe or swim in any of the lakes, ponds or rivers within the Town.

49.11. Obstructions on Streets and Sidewalks. No person shall use any portion of any street which the Town is obligated to keep in repair for the purpose of placing building materials or rubbish or moving a building on either the sidewalk or roadway without a permit from the Board of Public Works and approval of the Chief of Police. (*Amended ATM 2002.*) No person to whom such a permit is issued shall fail to comply with the conditions thereof. Application for such permit shall be made to the Board of Public Works. The Board of Public Works may by vote grant such permit to be in force for a period they may designate, not exceeding ninety days, upon condition that during the whole of every night, from sunset until sunrise, warning lights shall be so placed as to warn travelers of the presence of the obstruction and upon such further conditions as the Board of Public Works may by vote determine. The Board of Public Works may require that a bond be furnished to secure the performance of the provisions of this section. A copy of said vote certified by the Secretary or Clerk of the Board of Public Works shall forthwith be transmitted to the Chief of Police.

49.11A. Regulation of Utility Poles/Replacement of Existing Poles. (*New Section ATM 2000.*)

- a. A distribution company or a telephone company engaging in the removal of an existing pole and the installation of a new pole in place thereof shall, in accordance with Section 34B of Chapter 164 of the General Laws, complete the transfer of wires, all repairs, and the removal of existing pole from the site within 90 days from the date of installation of the new pole; provided, however, that for any approved commercial or industrial construction project, the completion of which is expected to take longer than one year, said company shall be required to remove such pole within six months from the date of installation of the new pole. The utility responsible for setting the new pole shall notify in writing all other users and also the Board of Selectmen and the Manager of the Municipal Light Plant of the starting date of such removal and installation work at least 48 hours prior to the commencement of such work. Said utility shall also require all other users to remove their wiring and other attachments from the poles within 30 days of such notice, and all other users shall comply.
- b. Any distribution company, telephone company or user violating this section shall be subject to a fine of not less than Three Hundred Dollars (\$300.00) for each offense, each day constituting a separate offense.

- c. The Board of Selectmen, or its designee, shall be the enforcement officer of this section. Upon the making of any complaint that a violation of this Section has occurred, the Board of Selectmen shall within 14 days, or such longer or shorter time as the board shall determine, convene a hearing to determine whether a complaint shall be sought in District Court (or whether the provision for non-criminal disposition in Article 52 shall be implemented). At said hearing, the Board shall also determine the date when the violation first occurred, for purposes of establishing the date of offense, each subsequent day constituting a separate offense, so that the fine as set forth in subparagraph (b) above may be correctly computed.

49.12a. Use of Town Water System. No person shall open a hydrant or turn off or turn on the water in any water main, service pipe, hydrant, water post, drinking fountain, or other fixture or appurtenance not on their own premises connected with the water system of the Town, nor make any opening into or connection therewith, without authority from the Director of Public Works, except in case of fire.

49.12b. Restrictions on the Use of the Town's Water Supply. (New Section ATM 2003.)

49.12b.1 Authority. This Bylaw is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and its powers under M.G.L. c.40, §21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This bylaw also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection (DEP).

49.12b.2 Purpose. The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the DEP.

49.12b.3 Definitions.

- a. Agriculture shall mean farming in all its branches and agriculture, as defined at M.G.L. c. 128, § 1A.
- b. Outdoor watering shall mean any residential, municipal, industrial, or commercial watering of non-agricultural lawns, trees or shrubbery.
- c. Person shall mean any individual, corporation trust, partnership, agency, authority association, or other entity and any officer, employee, group or agent of such persons.
- d. State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the DEP under M.G.L. c.21G, §15-17.
- e. State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to Section 4 of this bylaw.
- f. Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

49.12b.4 Declaration of a State of Water Supply Conservation. The Town, through the Board of Public Works, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board of Public Works that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 6 of this bylaw before it may be enforced.

49.12b.5 Restricted Water Uses. A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6.

- a. Outdoor Watering Hours: Outdoor water use is permitted only during daily periods of low demand, at night or early morning, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

- b. Alternate Day Outdoor Water Use: Outdoor water use by water users with odd numbered addresses is restricted to Tuesdays, Thursdays and Saturdays. Outdoor water use by water users with even numbered addresses is restricted to Wednesdays, Fridays and Sundays.
- c. Outdoor Water Method Restriction: Outdoor watering is restricted to bucket, can or hand held hose watering. The use and operation of automatic or unattended irrigation systems (in-ground or hose-connected) is prohibited.
- d. Car Washing: Washing of a car or vehicle is prohibited.
- e. Filling Swimming Pools: Filling of swimming pools is prohibited.
- f. Outdoor Water Use Ban: Outdoor water use is prohibited.

49.12b.6 Public Notification of a State of Water Supply Conservation and State of Water Supply Emergency; Notification of DEP. Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Notification of a State Water Supply Emergency declared by the DEP shall be provided by furnishing a copy of the Notice to radio and television stations serving the area served by the public water system as soon as possible, but no later than 48 hours after the public water system receives notice of the DEP's declaration. Any restriction imposed under Section 5 or in the DEP declaration of emergency or Order shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the DEP at the same time that notification is given.

49.12b.7 Termination of State of Water Supply Conservation; Notice. A State of Water Supply Conservation may be terminated by a majority vote of the Board of Public Works, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.

49.12b.8 State of Water Supply Emergency; Compliance with DEP Orders. Upon notification to the public that the DEP has issued a State of Water Supply Emergency, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the DEP intended to bring about an end to the State of Emergency. The notice prescribed by this section shall be in writing and shall be published once in a newspaper of general circulation within the town. The notice shall summarize the provisions of the Declaration of Water Supply Emergency and the requirements and conditions thereof. Notice as prescribed by this section shall be sufficient for enforcement of the requirements of such a Declaration on and after the date following newspaper publication.

49.12b.9 Violation and Penalties. Any person violating this bylaw shall be liable to the Town in the amount of \$50.00 for the first violation, and \$100 for each subsequent violation which shall inure to the Town for such uses as the Board of Public Works may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the General Laws. For purpose of non-criminal disposition, the enforcing person(s) shall be any police of the Town of Wellesley. Each day of violation shall constitute a separate offense.

49.12b.10 Severability. The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

49.12b.11 Exemptions. The Board of Public Works may grant exemptions for the following uses:

- a. Water to sustain animal life;
- b. Swimming pools used as a primary means of exercise, therapy or rehabilitation located at a medical or rehabilitation facility;
- c. Commercial car or vehicle washing facilities; provided the user demonstrates:
  - i. that the water will be used efficiently, and
  - ii. that any additional eligibility criteria established by the Board of Public Works are being met.

Requests for exemptions shall be made in writing to the Board of Public Works.

49.13. Internal Combustion Engines on Morse's Pond. The operation or use of any internal combustion engine in or upon that portion of Morse's Pond situated in the Town of Wellesley is prohibited. The provisions of this Section shall not apply to the Commonwealth of Massachusetts or to any political subdivision thereof.

49.14. Interference with Fire and Police Department Apparatus. No unauthorized person shall handle or in any way interfere with apparatus, machinery or fixtures belonging to the Fire or Police Department, or with any signal-box, wire, pole, or other thing connected with the fire alarm or police signal system.

49.15. Interference with Passage of Fire Apparatus. No person shall leave any vehicle unattended within the limits of any private way furnishing means of access for fire apparatus to any building so as to interfere with or restrict the passage of such apparatus.

49.16. Buildings Occupied by Fire or Police Department. No person shall enter into or remain in any building occupied by the Fire or Police Department without the permission of the officer having charge of such building, unless for some lawful purpose.

49.17. Interference with Hose Pipe. No person shall drive any vehicle upon or over any hose pipe lawfully placed in a street, or in use at a fire, except with the consent of the person in charge thereof.

49.18. Interference with Town Property. No person shall enter into, climb on or remain in any building or structure belonging to the Town without authorization from the department, board or official having custody of the building or structure. No unauthorized person shall handle, injure, remove, tamper with, or interfere with any seal, switch, wire, light, pole, fixture, apparatus, machinery or equipment belonging to the Town.

49.19. Possession and Use of Alcoholic Beverages. Drinking or possession of any alcoholic beverage, as defined in Chapter 138 of the Massachusetts General Laws, while in or upon any Wellesley Public Schools building or grounds, or Town owned grounds, is prohibited. Drinking or possession of any alcoholic beverage while in a Town building is prohibited, except insofar as may be allowed by temporary license issued by the Board of Selectmen to a nonprofit organization; provided, however, that any license so issued shall be conditioned on the licensee's compliance with the requirements of Chapter 138 of the Massachusetts General Laws and Chapter 635 of the Acts of 1982 and the Board of Selectmen's Rules and Regulations Governing Alcoholic Beverages. (Amended ATM 2018.)

No person shall consume any alcoholic beverage, as defined above, on any public way or way to which the public has a right of access as invitees or licensees, including any person in a motor vehicle while it is in, on, or upon any public way or any way to which the public has a right of access as aforesaid, within the limits of the Town of Wellesley; and no person shall consume any alcoholic beverages, in, on, or upon any private land or place without the consent of the owner or person in control of such private land or place.

Any person who violates this section may be arrested by a police officer without a warrant.

All alcoholic beverages being used in violation of this sentence may be seized and held until final adjudication of the charge against any such person or persons has been made by the Court.

Whoever violates the provisions of this section shall be punished by a fine not exceeding fifty dollars (\$50) for such offense.

49.19A. Consumption of Marijuana Prohibited. No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in Massachusetts General Laws Chapter 94C, Section 1, as amended) while in or upon any street, sidewalk, public way, including any person, in a motor vehicle while it is in, on or upon any public way or any way to which the public has right of access within the limits of the Town Wellesley, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town, or in or upon any bus or other passenger conveyance operated by a common carrier within the Town, or in any place to which the public has a right of access.

Violation of this Section is punishable by a fine of \$300. If said fine is unpaid through the non-criminal disposition process as outlined under Bylaw Article 52. Non-criminal Disposition, such payment shall be enforceable through indictment or on complaint before a district court. Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under General Laws Chapter 94C, Section 32L. (New section ATM 2013.)

49.20. Licensing of Vehicles for Hire. Except as otherwise provided by law, the Selectmen, upon such terms and conditions as they may deem expedient, may grant licenses to owners of vehicles to use such vehicles for the conveyance of persons or property for hire, and may designate stands and locations upon the streets of the Town where such vehicles may stand or wait for employment. Every such license shall be granted to expire on the last day of March next ensuing after the date of its issue and it may be revoked at any time for cause satisfactory to said Board. Each license may cover one or more vehicles belonging to the same owner, shall bear upon its face the date of its issue, the date of its expiration, the name and address of the owner of the vehicle or vehicles to whom the license is issued, and a description of each vehicle so licensed sufficient for its identification. The fee for each license shall be twenty-five dollars for each vehicle covered thereby and no license shall be transferred except with the approval of the Selectmen duly endorsed thereon. No person shall hold themselves out as the owner, driver or operator of any vehicle used for the purposes mentioned in this section, unless such vehicle is duly licensed as provided in this section.

49.21. Licensing of Junk Dealers. No person shall collect, deal in, or keep a shop for the purchase, sale or barter of junk, old metals or second hand articles within the limits of the Town, unless licensed by the Selectmen under such rules and regulations as they shall prescribe.

49.22. Possession and Use of Inflammable Substances. Except as otherwise provided in Chapter 148, no person shall keep, store, use, manufacture, sell or otherwise handle petroleum products, fuel oil, gasoline or inflammable fluids or compounds or any substance having such properties that it might spontaneously or acting under the influence of any contiguous substance, or of any chemical or physical agency, ignite or inflame or generate inflammable or explosive vapors or gases to a dangerous extent without registering so to do and obtaining a license therefor. The fee for such license shall be fifty dollars (\$50.00) and the annual Public Safety Certificates shall be twenty-five dollars (\$25.00). This section shall not apply to permits issued by the Chief Engineer of the Fire Department pursuant to the authority granted under Chapter 148, Section 10A of the General Laws.

49.23. Clearance Areas at Intersections. At each intersection of public or private streets or ways in the Town there shall be a clearance area consisting of the triangular area formed by the side lines of the intersecting streets or ways and a line joining each side line at a point twenty (20) feet distance from the point of intersection or, in case of rounded corners, from the point at which the side lines would intersect if projected. In case of uncertainty as to a point of intersection of such projected side line the Town Engineer shall certify to the Selectmen the clearance area drawn as nearly as may be in accordance with the foregoing provisions and having due regard for the safety of the public. No fence or other structure, shrubbery, foliage, hedge, tree or the like, which unreasonably interferes with sightlines across such clearance areas and thereby is hazardous to the safety of the public shall be erected, planted, maintained or allowed to exist within a clearance area. This section shall not apply to buildings which are not in violation of the Town Zoning Bylaws.

49.24. Fire Lanes. The Board of Fire Engineers is authorized to designate Fire Lanes on any property within the Town to allow for unimpeded access of firefighting apparatus. Fire Lanes shall be designated and posted as such. No person shall obstruct or park a vehicle in any Fire Lane.

49.25. Mechanical Protection Devices. Except as approved in writing by the Wellesley Fire Department and/or Police Department pursuant to regulations adopted by them, no person shall install a mechanical protection device that is automatically keyed to and/or activates the telephone (numbers) lines controlled by and/or listed to the Wellesley Fire Department and/or Police Department; all devices installed before the effective date of this section shall be removed within sixty days of said effective date, unless so approved. For the purposes of this section a mechanical protection device shall be defined as an electrically operated instrument composed of sensing apparatus and related hardware which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice alarm upon receipt of a stimulus from the sensing apparatus that has detected a physical force or condition inherently characteristic of a fire or unauthorized intrusion.

Notwithstanding compliance with the foregoing paragraph, no persons shall maintain any protection device designed to emit an audible alarm upon detection of a physical force or condition inherently characteristic of an unauthorized intrusion on property which continuously or intermittently sounds for a period of time in excess of twenty (20) minutes. All such devices installed before the effective date of this Section shall be brought into compliance hereof or shall be removed within sixty (60) days of said effective date. Any person violating this Section shall be subject to a fine of not less than twenty (\$20) dollars for each offense.

The Board of Fire Engineers shall enact regulation requiring that any person having installed an electric or mechanical fire protection device in a lodging house, shall, in addition to such other requirements as shall be required in the license for such, take such steps as said regulations shall specify to preserve the integrity and safety of the device against vandalism or other improper use. Said regulations shall include, among other things, that there be posted in a conspicuous place on each floor copies of the General Laws making it a crime to interfere with firefighting operations and the causing of a false fire alarm. Said regulations may also govern lodgers and visitors, and may include penalties for the violation of the same, which may be enforceable under the procedure for non-criminal disposition set forth in Town Bylaw Article 52. BYLAW VIOLATION: NON-CRIMINAL DISPOSITION.

The Board of Selectmen shall enact regulations requiring that any person having installed an electric or mechanical police alarm device shall, in addition to such other requirements as shall be required by law, or deemed to be in the Town's best interest, take such steps as said regulations shall specify to preserve the integrity and safety of the device against improper or negligent use. Said regulations shall include penalties for the violation of the same, which may be enforceable under the procedure for non-criminal disposition set forth in Town Bylaw Article 52. BYLAW VIOLATION: NON-CRIMINAL DISPOSITION.

49.26. Handicapped Parking.

- a. Any person having lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees shall, if said area contains more than 15 parking spaces, reserve, identify and locate parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person pursuant to the provisions of paragraph (23) of Section 21 of Chapter 40 of the General Laws.
- b. The leaving of any unauthorized vehicle within parking spaces designated for use by disabled veterans or handicapped persons as authorized and required by this bylaw, or in any manner as to obstruct a curb ramp designed for use by handicapped persons as a means of egress to a street or public way, is hereby prohibited. Whoever violates any provisions of this bylaw 49.29.(B.) shall forfeit and pay for each offense the fine established for the same in Section 10-1 of Article X of the Town Traffic Regulations, as the same may from time to time be amended; and for each subsequent offense, the vehicle may be removed according to the provisions of Section 120 D of Chapter 266 of the General Laws.(Amended STM 2001.)

49.27. Disabled, Dismantled, Inoperative and/or Unregistered Motor Vehicles. No person in charge or control of any property in any part of the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, inoperative, wrecked, junked or unregistered motor vehicle to remain on such property longer than thirty (30) days, unless said vehicle:

- a. is enclosed within a building or, if not enclosed,
- b. is parked or stored other than in the front yard of the property, and is screened from view from all public or private ways and no unsightly condition is visible from adjacent property is created or,
- c. is stored or parked on land or premises located in any business district, by a licensee authorized by the Board of Selectmen to sell or lease motor vehicles pursuant to Section 59 of Chapter 140 of the General Laws.

The right to park or store such a vehicle under subparagraph (2) shall be restricted to no more than one such vehicle on the property at the same time.

49.28. Recreational Trailers or Vehicles. No person shall keep, store or park a recreational trailer or vehicle unless said trailer or vehicle:

- a. is enclosed within a building or, if not enclosed,
- b. is stored or parked on property being used for residential purposes, is located thereon other than in the front yard of the property, as defined in the Zoning Bylaws, is screened from view from all public or private ways, and is used solely for intermittent recreational, non-commercial use by the resident(s) living on the property, or

- c. is stored or parked on premises by a licensee authorized by the Board of Selectmen to sell or lease motor vehicles pursuant to Section 59 of Chapter 140 of the General Laws.

The right to park or store such a vehicle or trailer shall be unrestricted for a period of not more than forty-eight (48) hours for loading or unloading purposes. In no case shall any such trailer or vehicle be occupied on any property for an aggregate total of more than thirty (30) days in any one year.

For purposes of this section, a recreational trailer or vehicle is defined as follows:

A vehicular, portable unit designed for travel, camping or recreational use, including but not limited to the following:

- a. Travel Trailer - A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed 4500 pounds, or being of any weight provided its overall length does not exceed 28 feet.
- b. Pick-Up Camper - A portable dwelling unit, designed to be mounted on a pick-up truck or chassis, whether or not so mounted.
- c. Motorized Camper - A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- d. Tent Trailer - A folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.
- e. Boat Trailer - A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle.
- f. Boat - Any vehicle for recreational use on water having an overall length of 16 or more feet.

49.29. Scenic Roads. Whoever violates the provisions of Section 15C of Chapter 40 of the Massachusetts General Laws, governing Scenic Road designations, or the Town of Wellesley Scenic Road Regulations, shall forfeit and pay for each offense a fine not exceeding three hundred (\$300) dollars.

49.30. Temporary and Transient Vendors. The Board of Selectmen shall enact regulations governing the licensing and manner of conducting business of persons engaging in a temporary or transient business activity, whether or not for profit, in the Town. Said regulations may include penalties for the violation of the same, which may be enforceable under the procedure for non-criminal disposition set forth in Town Bylaw Article 52. BYLAW VIOLATION: NON-CRIMINAL DISPOSITION.

49.31. Restrictions on hours of certain commercial activity. Except in an emergency, and except as permitted by statute or the Chief of Police as herein provided, no person shall undertake or perform any outdoor commercial activity involving construction, earth moving, yard maintenance, home improvement, or the delivery or pick up of equipment or supplies for use therein, except during the following periods of time:

Monday through Friday:	7 a.m. until 7 p.m.
Saturday and state observed holidays:	8 a.m. until 7 p.m.
Sunday:	Prohibited.

The foregoing regulated activity includes, but is not limited to, the use of equipment powered by electric or internal combustion engines.

Upon application, the Chief of Police or their designee may issue permits for the conduct of necessary commercial outdoor activity which could not be performed during the otherwise permitted times without serious suffering, loss, damage, or public inconvenience.

This bylaw shall not apply to snow removal operations. (New Section ATM 2009.)

49.32. Penalty for Violation. Whoever violates any provisions of this article shall, in cases not otherwise provided for, forfeit and pay for each offense a fine not exceeding fifty (\$50) dollars.

49.33 Fingerprint-Based Criminal Record Background Checks. (New Section STM 2011.)

49.33.1 Purpose and Authorization. In order to protect the health, safety, and welfare of the inhabitants of the Town of Wellesley, and as authorized by Chapter 6, section 172B 1/2 of the Massachusetts General Laws as

enacted by Chapter 256 of the Acts of 2010, this by-law shall require a) applicants for certain Town licenses permitting the engagement in specific occupational activities within the Town as enumerated in Section 49.36.2 below to submit to fingerprinting by the Wellesley Police Department, b) the Police Department to conduct criminal record background checks based on such fingerprints, and c) the Town to consider the results of such background checks in determining whether or not to grant a license.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI) as may be applicable to conduct on the behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this by-law. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this by-law.

49.33.2 Applicant's Submission to Fingerprinting by the Wellesley Police Department. Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Wellesley Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

- Manager of Alcoholic Beverage License
- Hawker and Peddler
- Owner or Operator of Public Conveyance
- Dealer of Second-Hand Articles
- Ice Cream Truck Vendor

At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's FBI criminal history records.

49.33.3 Police Department Processing of Fingerprint-Based Criminal Record Background Checks and Communication of Results. The Police Department shall transmit fingerprints it has obtained pursuant to Section 49.36.2 of this by-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in Section 49.36.2.

The Police Department shall provide the applicant with a copy of the results of their fingerprint-based criminal record background check and supply the applicant the opportunity to complete or challenge the accuracy of the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction, or updating of a criminal record, including a copy of 28 C.F.R. Part 16.34 pertaining to FBI identification records. The Police Department shall not utilize the fingerprint-based criminal record background check pursuant to the paragraph below until it has taken the steps detailed in this paragraph and otherwise complied with the Town's policy applicable to Town licensing-related criminal record background checks.

The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the Town. The Police Department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon their suitability, or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex-related offense.

49.33.4 Reliance on Results of Fingerprint-Based Criminal Record Background Checks. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in Section 49.36.2. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless

the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

49.33.5 Compliance with Law, Regulation, and Town Policy. Implementation of this by-law and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations, and Town policies, including, but not limited to, the Town's policy applicable to licensing-related criminal record background checks which shall include record retention and confidentiality requirements. The Town shall not disseminate the results of fingerprint-based criminal background checks except as may be provided by law, regulation, and Town policy. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

49.33.6 Fees. The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be one hundred dollars (\$100). A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

## **ARTICLE 50. MUNICIPAL PARKING LOT REGULATIONS**

50.1 Definitions. For the purposes of this article

- a. "Person" shall mean and include an individual, firm, co-partnership, association or corporation.
- b. "Municipal Parking Lot" shall mean and include any land acquired or leased by the Town for use as a parking lot and any other land of the Town set aside for such use, either permanently or temporarily, by vote of Town Meeting.
- c. "Parking Meter" shall mean any mechanical device, not inconsistent with the provisions of this Article, placed or erected on any municipal parking lot of the Town for regulation of parking.
- d. "Parking Meter Space" shall mean a space in the portion of any municipal parking lot where parking meters have been installed which is duly designated for the parking of a single vehicle by painted lines or other markings on the surface of the lot adjacent to or adjoining a parking meter.

50.2. Revocable License to Park. The parking of any vehicle in a municipal parking lot shall be under a temporary license or permit from the Town. The license or permit shall be granted only to those persons who comply with, and shall be subject to, the provisions and conditions set out in this article and in the policies and procedures adopted by the Selectmen under this Article. The license or permit shall be revocable at the will of the Town.

No person shall enter upon any municipal parking lot except in connection with the parking of a vehicle therein in accordance with such a license or permit.

50.3. Installation of Meters. Pursuant to the provisions of Chapter 40, Section 22C of the General Laws, parking meters shall be installed in such municipal parking lots or portions thereof as the Selectmen shall determine from time to time. Such meters shall be installed under the direction and supervision of the Selectmen in accordance with the provisions of this Article.

Each parking meter installed hereunder shall show by proper legend the maximum parking time established by the Selectmen for the parking meter space adjacent to it, as hereinafter provided, and shall at all times show the balance of parking time permitted. At the expiration of the period for which a parking fee was paid, the meter shall indicate illegal or overtime parking. Each such meter shall show by similar legend the parking fees established by the Selectmen for said space.

50.4. Assumption of Risk. By parking a vehicle in a municipal parking lot the owner or operator thereof accepts and exercises a license or permit from the Town to do so under the provisions of this Article and thereby agrees to assume all risk of and responsibility for any loss or damage thereto or to any property therein, while said vehicle is in said municipal parking lot, from any cause whatever and to indemnify the Town, its officers, officials and employees, and save it and them harmless from and against all claims and demands whatsoever for or because of such loss or damage.

Any person, including but not limited to any owner, operator, or occupant of a vehicle, going into, upon or across a municipal parking lot, whether on foot or in a vehicle, for or in connection with the parking of a vehicle therein accepts and exercises a license or permit from the Town under the provisions of this Article and thereby agrees to assume all risk of and responsibility for injuries to their person, or for their death, while on or as a result of their having been on said lot, from any cause whatever, and that neither they nor any of their heirs, executors, administrators or assigns will make any claim or demand whatever against the Town or any of its officers, officials or employees for or because of such injuries or death.

50.5. Maintenance of Meters. The Board of Selectmen or its designee shall be responsible for the maintenance and repair of all parking meters installed in municipal parking lots. (*Amended ATM 2002*)

50.6. Permitted Parking Periods. The maximum periods of time vehicles will be permitted to park in the several municipal parking lots of the Town and in the various parking meter spaces therein shall be established by policies and procedures adopted by the Selectmen.

No person shall park a vehicle in a municipal parking lot or in a parking meter space therein for longer than the maximum parking period established for said lot or space.

No person shall deposit or cause to be deposited in a parking meter any coin for the purposes of permitting a vehicle to remain in a parking meter space beyond the maximum period of time established for that space.

50.7. Parking Fees. The fees for parking vehicles in municipal parking lots and in parking meter spaces for such lots shall be established by policies adopted by the Selectmen.

The Selectmen may by such policies establish lower or different fees for residents than those which are payable by nonresidents or exempt such residents from the payment of such fees. If the Selectmen shall so establish more favorable parking privileges for residents they may by such policies provide for the issuance to such residents of plates, stickers or other insignia to be affixed to their vehicles to show that they are entitled to residents' privileges.

The owner or operator of a vehicle parking the same in a parking meter space shall immediately deposit in the parking meter for that space the required coin or coins of the United States for the maximum parking time established for said space, or for any permitted subdivision thereof, as shown on the meter; and if so required, they shall set the mechanism in motion.

50.8. Safety Precautions. The ignition keys shall be removed and the hand brake or emergency brake shall be set by the owner or operator of every vehicle parked in a municipal parking lot.

50.9. Animals. No animals or pets shall be left in or upon any vehicle parked in a municipal parking lot.

50.10. Prohibited Parking. No person shall park a vehicle in a parking meter space, or in any other portion of a municipal parking lot where parking fees are payable, without paying the fees established by policies adopted by the Selectmen under this article, unless they shall have been exempted from payment of said fees by such policies because they are a resident.

No person shall park a vehicle in the portion of any municipal parking lot where parking meters have been installed unless such vehicle is wholly within a parking meter space adjacent to such a meter.

50.11. Interference with Meters. No unauthorized person shall open, break, injure, destroy or tamper with any parking meter.

No person shall deposit or cause to be deposited in such a meter any slug, device or metal substance, or any other substitute for a coin required for the operation of such a meter, or do any other act or thing which will cause such a meter not to operate properly.

50.12. Collection of Fees. The Board of Selectmen or its designee shall be responsible for the collection of all fees payable for parking in the municipal parking lots. (*Amended ATM 2002*) Monies deposited in parking meters shall be collected at such intervals as the Selectmen shall direct. All monies collected under this section shall be deposited forthwith with the Town Treasurer in the special account known as the Wellesley Parking Meter Account.

50.13. Enforcement. It shall be the duty of the officers of the Police Department, under the direction and supervision of the Chief of Police, to enforce the provisions of this Article and the policies adopted by the Selectmen under it.

50.14. Penalties. Any person violating any of the provisions of this Article, or of the policies adopted by the Selectmen under it, shall be subject to a fine of not more than twenty dollars (\$20.00) for each offense.

50.15. Policies and Procedures. The Selectmen shall adopt, amend and repeal policies and procedures under the provisions of this Article. Policies and procedures under Section 50.6. are traffic regulations and shall be published in accordance with Section 22, Chapter 40 of the General Laws.

50.16. Partial Invalidity. If any provision of this article is for any reason declared to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this article.

## **ARTICLE 51. USE OF PESTICIDES**

51.1. Definition of "Pesticides". All chemicals defined under the Massachusetts Pesticide Control Act, Massachusetts General Laws Chapter 132B, and the regulations promulgated thereunder.

51.2. Registration of Applicators. All commercial pesticide applicators operating within the Town of Wellesley must register with the Town of Wellesley Health Department. Prior to the application of any pesticides within the Town of Wellesley the applicator must provide proof of licensure for each employee who will be applying pesticides within the Town of Wellesley.

51.2.1. Each commercial applicator who registers with the Town shall be given one or more sticker(s) or decal(s) that indicate that the applicator is registered with the Town. The sticker or decal shall be plainly visible on the driver's side of the vehicle.

51.2.2. Each applicator who registers shall be given a copy of this bylaw and a map of the Town's Water Supply Protection Districts.

51.2.3. A fee sufficient to cover the costs of registration and decal(s) may be levied by the Health Department.

51.3. State Posting/Flagging Requirements. Commercial applicators shall fully comply with state posting and flagging requirements.

51.4. Penalties for Failure to Comply. Any commercial pesticide applicator who fails to register with the Health Department and who dispenses or uses pesticides in the Town without being registered shall be subject to a fine of fifty dollars (\$50.00) for the failure to register.

51.4.1. A second failure to register shall be punishable by a fine of two hundred dollars (\$200).

51.4.2. A subsequent failure to register shall be punishable by denial of the right to apply pesticides in the Town for one year.

51.4.3. Any commercial applicator who fails to comply with state posting and flagging requirements shall be subject to the penalties set forth in Section 51.4.

## **ARTICLE 52. BYLAW, RULE OR REGULATION VIOLATIONS; NON-CRIMINAL DISPOSITION**

*(Amended/Replaced ATM 2018.)*

A. Criminal complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for each violation or offense brought in such manner shall be three hundred dollars (\$300).

B. Noncriminal disposition. Whoever violates any provision of these bylaws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in MGL C. 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws and sections of bylaws are to be included within the scope of this subsection, that the specific penalties, as listed herein, shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if

any, shall also be enforcing persons for such section. Each day on which any violations exist shall be deemed to be a separate offense.

52.1 General provisions subject to enforcement under M.G.L. c. 40, § 21D:

- a. Consumption of Marijuana (Article 49.19A).
  - [1] Enforcement agents: police officers.
  - [2] Fine schedule: first and subsequent offenses, three hundred dollars (\$300).
- b. Regulation of Utility Poles Bylaw (Article 49.11A).
  - [1] Enforcement agents: Board of Selectmen.
  - [2] Fine schedule: first and subsequent offenses, three hundred dollars (\$300).
- c. Water Supply Restrictions (Article 49.12b).
  - [1] Enforcement agents: police officers.
  - [2] Fine schedule: first offense, fifty dollars (\$50); second and subsequent offenses, one hundred dollars (\$100).
- d. Mechanical Protection Devices (Article 49.28).
  - [1] Enforcement agents: Board of Fire Engineers and Board of Selectmen.
  - [2] Fine schedule: first and subsequent offenses, twenty dollars (\$20).
- e. Temporary and Transient Vendor Bylaw (Article 49.33).
  - [1] Enforcement agents: Board of Selectmen.
  - [2] Fine schedule: first offense, one hundred fifty dollars (\$150); second and subsequent offenses, three hundred dollars (\$300).
- f. Police Regulations (Article 49) not otherwise specified herein.
  - [1] Enforcement agents: police officers.
  - [2] Fine schedule: first and subsequent offenses, fifty dollars (\$50).
- g. Animal Control (Article 47).
  - [1] Enforcement agents: Animal Control Officer.
  - [2] Fine schedule:
    - i. For violations of the requirements proof of a current rabies vaccination or a certification of exemption from the vaccination requirement: first and subsequent offenses, one hundred dollars (\$100).
    - ii. For violations of the licensing requirements of individual dogs: fifty dollars (\$50) for each unlicensed dog.
    - iii. For violations of Articles 47.6.b and 47.6.c: first offense, fifty dollars (\$50); second offense, one hundred dollars (\$100); third and subsequent offenses, three hundred dollars (\$300).
    - iv. All other violations of Article 47, not described in i. through iii., above: first offense, one hundred dollars (\$100); second offense, two hundred dollars (\$200); third and subsequent offenses, three hundred dollars (\$300).

52.2 Rules and regulations of the Board of Health subject to enforcement under M.G.L. c. 40, § 21D:

- a. Abrasive Blasting Regulations (Chapter XVII).
  - [1] Enforcement agents: Board of Health agents.

- [2] Fine schedule: first offense, two hundred dollars (\$200); second and subsequent offenses, three hundred dollars (\$300).
- b. Animal Regulations (Chapter XVI) – keeping a feral animal.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, fifty dollars (\$50).
- c. Animal Regulations (Chapter XVI) – general.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, twenty-five dollars (\$25).
- d. Food Service Regulations (Chapter I) - general.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense, fifty dollars (\$50); second offense, one hundred dollars (\$100); third offense, two hundred dollars (\$200); fourth and subsequent offenses, three hundred dollars (\$300).
- e. Food Service Regulations (Chapter I) – Remodeling without a permit.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, two hundred dollars (\$200).
- f. Food Service Regulations – Addition of food service operation.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, one hundred fifty dollars (\$150).
- g. Housing Regulations (Chapter II) – General.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, one hundred fifty dollars (\$150).
- h. Nuisance Regulations (Chapter III).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense, fifty dollars (\$50); second offense, one hundred dollars (\$100); third offense, two hundred dollars (\$200); fourth and subsequent offenses, three hundred dollars (\$300).
- i. Pool Regulations (Chapter XII).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, two hundred dollars (\$200).
- j. Rubbish Regulations (Chapter VI).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, two hundred dollars (\$200).
- k. Hazardous Waste Regulations.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, two hundred dollars (\$200).
- l. Tobacco Regulations (Chapter XVIII).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense, one hundred dollars (\$100); second offense, two hundred dollars (\$200); third and subsequent offenses, three hundred dollars (\$300).

- m. Sewage Regulations (Chapter V) - general.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense, one hundred dollars (\$100); second offence, two hundred dollars (\$200); third and subsequent offenses, three hundred dollars (\$300).
- n. Sewage Regulations (Chapter V) – Installing well without a permit.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, two hundred dollars (\$200).
- o. Sewage Regulations (Chapter V) – Installing well without an installer’s permit.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, two hundred dollars (\$200).
- p. Sewage Regulations (Chapter V) – Use of unauthorized chemicals.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first and subsequent offenses, two hundred dollars (\$200).
- q. Operation without a required permit or license.
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense, two hundred dollars (\$200); subsequent days on which the violation continues, fifty dollars (\$50).
- r. Well drilling without a permit (Chapter X).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense and subsequent offenses, three hundred dollars (\$300).
- s. Illegal Dumping (Chapter VII).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense and subsequent offenses, three hundred dollars (\$300).
- t. Disposal of Refuse Violations (Chapter VI).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense and subsequent offenses, two hundred dollars (\$200).
- u. Lead Paint Removal Violations (Chapter XV).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense and subsequent offenses, one hundred dollars (\$100).
- v. Body Art (Chapter XIX).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense and subsequent offenses, one hundred dollars (\$100).
- w. Plastic Bag Bylaw (Article 34.5C).
  - [1] Enforcement agents: Board of Health agents.
  - [2] Fine schedule: first offense, fifty dollars (\$50); second and subsequent offenses, one hundred dollars (\$100).
- x. Rules and regulations of the Board of Health - not otherwise specified herein.
  - [1] Enforcement agents: Board of Health agents.

- [2] Fine schedule: first offense, twenty-five dollars (\$25); second offense, fifty dollars (\$50); third and subsequent offenses, one hundred dollars (\$100).

### **ARTICLE 53. PUBLIC NUISANCE**

- a. No owner or tenant shall keep in the public view, on any lot, in any residential district, any substantial amount of junk or debris for more than a reasonable amount of time.
- b. Definitions
  - i. "Junk and Debris" includes, but is not limited to, scrap metal, construction materials, unsafe and dilapidated accessory buildings, rags, plastics, batteries, paper, trash, furniture, which is not in active for any purpose authorized in a residential district.
  - ii. "A Substantial Amount" shall mean a quantity of material which occupies more than 375 cubic feet in the aggregate on any lot.
  - iii. "Reasonable Amount of Time" shall mean ninety (90) days.
- c. Conditions existing at the date of the Bylaw enactment, which meet the definition of substantial amounts of junk or debris must be brought into compliance within six months of the date of approval of this Bylaw.
- d. Enforcement
  - i. The Building Inspector shall be charged with the interpretation and enforcement of this Bylaw.
  - ii. Anyone found in violation may be fined \$25.00 for each day the violation persists beginning thirty (30) days after notice of violation.
- e. Action under this Bylaw shall not bar any separate action initiated by any other Town department for health, fire safety or other violations.

### **ARTICLE 54. AMENDMENT AND REPEAL**

54.1. Amendment. "Amendment" includes modification and repeal of these bylaws and the addition of new provisions.

54.2 Procedure. A motion to amend or repeal these bylaws or any portion of them shall be made to Town Meeting in accordance with the usual procedure for placing an item in the warrant for any Annual or Special Town Meeting.

54.3 Majority Vote. No bylaw shall be adopted, amended, or repealed unless approved by a majority of those voting on the question.

### **ARTICLE 55. REVOLVING FUNDS**

*(New ATM 2017. Amended ATM 2019.)*

55.1 Establishment of Revolving Funds. Pursuant to Section 53E1/2 of Chapter 44 of the General Laws, the following individual revolving funds shall be authorized:

- a. Street Opening Maintenance Fund. Funds held in the Street Opening Maintenance Fund shall be expended under the direction of the Department of Public Works for administrative services related to issuing permits for work conducted in the public way and for inspection of that work to ensure compliance with town standards. Receipts credited to this fund shall include permit fees collected for work conducted in the public way.
- b. DPW Field Use Fund. Funds held in the DPW Field Use Fund shall be expended for maintenance of the Town's playing fields and track and Playing Fields Task Force administrative costs, under the direction of the Department of Public Works. Receipts credited to this fund shall include fees charged to field and/or track users.

- c. Turf Field Fund. Funds held in the Turf Field Fund shall be expended for repairs to and replacement of the artificial turf at Sprague Field and Hunnewell Field, under the direction of the Department of Public Works. Receipts credited to this fund shall include fees charged to field users.
- d. Tree Bank Fund. Funds held in the Tree Bank Fund shall be expended for buying, planting, and maintaining trees under the direction of the Department of Public Works. Receipts credited to this fund shall include contributions in lieu of tree replanting.
- e. Baler, Compacters and other RDF Equipment Repair Fund. Funds held in the Baler, Compacters and other RDF Equipment Repair Fund shall be expended for repairs to the Recycling and Disposal Facility (RDF) baler, compactors, and other RDF equipment under the direction of the Department of Public Works. Receipts credited to this fund shall include revenue from the sale of Metal at the RDFs.
- f. Council on Aging Social and Cultural Programs Fund. Funds held in the Council on Aging Social and Cultural Programs shall be expended for senior programs under the direction of the Council on Aging. Receipts credited to this fund shall include participant fees.
- g. Teen Center Program Revenues Fund. Funds held in the Teen Center Program Revenues Fund shall be expended for Teen Center program and its accompanying activities under the direction of the Recreation Department. Receipts credited to this fund shall include donations and user fees.
- h. Library Room Rental Fund. Funds held in the Library Room Rental Fund shall be expended for personnel, services, cleaning, repairs, improvements, reimbursements and equipment under the direction of the Library Department. Receipts credited to this fund shall include room rental fees and reimbursements.
- i. Lost/Damaged Library Materials Replacement Fund. Funds held in the Lost/Damaged Library Materials Replacement Fund shall be expended for library materials under the direction of the Library Department. Receipts credited to this fund shall include lost and damaged fees.
- j. Brookside Community Gardens Fund. Funds held in the Brookside Community Gardens Fund shall be expended for maintenance, utility payments, and improvements under the direction of the Department of Natural Resources. Receipts credited to this fund shall include user permit fees.
- k. Weston Road Gardens Fund. Funds held in the Weston Road Gardens Fund shall be expended for maintenance, utility payments, and improvements under the direction of the Department of Natural Resources. Receipts credited to this fund shall include user permit fees.
- l. Library Copier Fees Fund. Funds held in the Library Copier Fees Fund shall be expended for equipment, maintenance, and supplies under the direction of the Library Department. Receipts credited to this fund shall include copy, print, equipment and other related fees.
- m. Cultural Council Revenues Fund. Funds held in the Cultural Council Revenues Fund shall be expended for Cultural Council programs under the direction of the Cultural Council. Receipts credited to this fund shall include user fees from Cultural Council programs.

*(Amended ATM 2019.)*

**APPENDIX**

CHAP. 202 OF THE ACTS OF 1932, AS AMENDED

**AN ACT ESTABLISHING IN THE TOWN OF WELLESLEY**

**REPRESENTATIVE TOWN GOVERNMENT BY LIMITED TOWN MEETINGS.**

Be it enacted, etc., as follows:

**Representative  
Town Government**

**SECTION 1.** There is hereby established in the Town of Wellesley the form of representative town government by limited town meetings, hereinafter set forth.

**Town Meeting  
Members**

**SECTION 2.** The registered voters of each precinct in said town shall, at the next ensuing annual town election held after the acceptance of this act, and the registered voters of any precinct affected by any revision of precincts shall at the first annual town election following such revision, and conformably to the laws relative to elections not inconsistent with this act, elect by ballot from residents of the precinct town meeting members, to the largest number which is divisible by three and which will make the representation of such precinct in the approximate proportion which the number of registered voters therein bears to the total number of registered voters in the town, and which will cause the total elected membership to be as nearly two hundred and forty as may be but not more than two hundred and forty. The first third in the order of votes received of members so elected shall serve three years, the second third in such order shall serve two years and the remaining third in such order shall serve one year from the day of such election; and thereafter except as herein provided, at each annual town election the registered voters of each precinct shall, in like manner, elect as town meeting members for the term of three years, such number of elected town meeting

**240 Members**

**Terms**

members as are necessary to provide for such precinct the total number of elected town meeting members to which it is then entitled, and shall, at such election, fill for the unexpired term or terms any vacancies then existing in the number of town meeting members in such precinct.

**Tie Vote**

In the case of a tie vote which affects the election of town meeting members in any precinct and not in the case where a vacancy is involved as set forth in Section 8A, the Town Clerk shall call a special meeting of the town meeting members of the precinct in which such tie vote occurred. The members from the affected precinct shall determine which of the candidates receiving such tie vote shall serve as town meeting member from such precinct, or they shall determine which member receiving such tie vote shall serve for the longer and which for the shorter term, as the case may be. The procedures to be followed at said special meeting shall be the same as those prescribed for the special meeting provided for in Section 8.

**Notice to  
Members Elected**

The Town Clerk shall, after every election of town meeting members, forthwith notify each member, by mail, of his election.

**Proportionate  
Representation**

The number of elected town meeting members to which each precinct is entitled for the ensuing year shall be determined by the Town Clerk by January 1<sup>st</sup> of each year and shall be proportionate to the number of residents in each precinct as of December 15<sup>th</sup> of the prior year.

**Establishment**

At such time the Town Clerk shall also establish how many of the vacancies in

**of Terms**

any precinct shall be for three-year terms, two-year terms and one-year terms, so that, insofar as possible, one-third of the town meeting members from each precinct shall be elected in each year. In any such election there shall not be separate contests for three-year terms, two-year terms, and one-year terms, but members elected at such election shall be assigned terms of office on the basis of the number of votes they received, those receiving the highest number of votes being assigned three-year terms, and then in descending order two-year terms and one-year terms.

**Order of Candidates on the Ballot**

SECTION 2A. Notwithstanding any provisions of general or special law to the contrary the order in which names of candidates for each Town office, including the office of Town meeting member, appear on the ballot in any Town election in the Town of Wellesley shall be determined by a drawing by lot conducted by the Town Clerk. Each candidate shall have an opportunity to be present in person or to be represented by a designee at the drawing.

**Revision of Precincts Effective Date**

SECTION 3. After the acceptance of this act, the boundaries of the precincts shall be reviewed, and, if need be, wholly or partly revised, by the Selectmen in December once in five years, or in December of any year when so directed by a vote of a representative town meeting held not later than November twentieth of that year, but no precinct shall contain less than four hundred registered voters.

**Town Clerk to Give Written Notice to State Secretary**

The Selectmen shall, within ten days after any revision of the precincts, file a report of their doings with the Town Clerk, the registrars of voters and the assessors, with a map or maps or description of the precincts and the names and residences of the registered voters therein. The Selectmen shall also cause to be posted in the town hall a map or maps or description of the precincts as revised from time to time, with the names and residences of the registered voters therein; and they shall also cause to be posted in at least one public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein. Any revision of the voting precincts shall take effect upon the date of the filing of the report thereof by the Selectmen with the Town Clerk. Whenever the precincts are revised, the Town Clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts. Meetings of the registered voters of the several precincts for elections, for primaries, and for voting upon any question to be submitted to all the registered voters of the town, shall be held on the same day at the same hour and at such place or places within the town as the Selectmen shall in the warrant for such meeting direct. The provisions of chapters fifty to fifty-six, inclusive, of the General Laws, relating to precinct voting at elections, so far as the same are not inconsistent with this chapter, shall apply to all elections and primaries in the town.

**Meetings of Voters, When and Where to be Held**

**Certain Provisions Of General Laws to Apply**

**When Terms Of Office of Town Meeting Members Shall Cease**

The terms of office of all elected town meeting members from every precinct revised as aforesaid shall cease upon the election, as herein provided, of their successors.

**Town Meetings Limited Ex Officiis Members**

SECTION 4. Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the town meeting members elected under section two, together with such town meeting members ex officii as may be provided for by the bylaws of the town, and authority to adopt such bylaws is hereby conferred.

**Notice of Meetings**

The Town Clerk shall notify the town meeting members of the time and place at which representative town meetings are to held, the notices to be sent by mail at least

<b>Quorum</b>	five days before the meeting. The representative town meeting shall be the judges of the election and qualifications of the elected members thereof. A majority of the town meeting members shall constitute a quorum for doing business; but a less number may organize temporarily and may adjourn from time to time, but no town meeting shall adjourn over the date of an election of town meeting members. All town meetings shall be public. The town meeting members as such shall receive no compensation.
<b>Meetings Public No Compensation</b>	Subject to such conditions as may be determined from time to time by the members of the representative town meeting, any registered voter of the town who is not a town meeting member may speak at any representative town meeting, but shall not vote.
<b>Resignations</b>	A town meeting member may resign by filing a written resignation with the Town Clerk, and such resignation shall take effect on the date of such filing. Any elected town meeting member who becomes by appointment or election one of the officers
<b>Ex officii Member</b>	designated as town meeting member ex officii shall thereupon cease to be an elected town meeting member. A town meeting member who removes from the town shall
<b>Removal From Town or Precinct Effect</b>	cease to be a town meeting member, and a town meeting member who removes from the precinct from which he was elected to another precinct may serve only until the next annual town meeting.
<b>Nomination Of Candidates for Town Meeting Members,</b>	SECTION 5. Nomination of candidates for town meeting members to be elected under this act shall be made by nomination papers, which shall bear no political designation, shall be signed by not less than ten voters of the precinct in which the candidate resides, and shall be filed with the board of registrars at least thirty-five days
<b>How Made</b>	before the election and with the Town Clerk at least twenty-eight days before the election; provided, that any town meeting member may become a candidate for
<b>Proviso</b>	re-election by giving written notice thereof to the Town Clerk at least forty-two days before the election. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.
<b>Warrant Articles How Acted Upon</b>	SECTION 6. The articles in the warrant for every town meeting, so far as they relate to the election of the moderator, town officers, and town meeting members, and, as herein provided, to referenda, and all matters to be acted upon and determined by ballot, shall be so acted upon and determined by the registered voters of the town in their respective precincts. All other articles in the warrant for any town meeting shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the Selectmen in the warrant for the meeting, subject to the referendum provided by Section Nine.
<b>Moderator, Election, Etc.</b>	SECTION 7. A moderator shall be elected by ballot at each annual town election, and shall serve as moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified. Nominations for an election of moderator shall be as in the case of other elective town officers, and any vacancy in the office shall be filled by town meeting members at a meeting held for that purpose.
<b>Moderator</b>	If a moderator is absent, a moderator pro tempore shall be elected by the town meeting
<b>Pro Tempore</b>	members.
<b>Vacancies in Full Number of Town Meeting Members Failure to Elect Filling, etc.</b>	SECTION 8. In the event of any vacancy in the full number of town meeting members of any precinct arising from the failure of registered voters thereof to elect, it shall be filled, until the next annual election, by the remaining town meeting members of the precinct from the registered voters thereof. In the event the Town Clerk shall promptly call a special meeting of the town meeting members of the precinct in which the vacancy or vacancies exists for the purpose of filling the vacancy or vacancies. He shall cause to be mailed to every such member, not less than fourteen days before the time set for the meeting, a notice specifying the object, time and place of the meeting.

**Choice by Ballot  
Certificate of  
Choice, Etc.**

At the said meeting a majority of the members from such precinct shall constitute a quorum. The choice to fill the vacancy or vacancies shall be by ballot, and a majority of the votes cast shall be required for a choice. The Town Clerk shall preside at said meeting, count the ballots, make a certificate of the choice for his records and notify the person so chosen; and, upon receipt by the Town Clerk of a written acceptance by the person so chosen, that person shall be deemed elected and qualified as town meeting member, subject to the right of all town meeting members to judge of the election and qualifications of the members as set forth in Section Four.

**Acceptance**

**Vacancies Other  
Than Failure to  
Elect, Filling of, Etc.**

SECTION 8A. In the event of any vacancy in the full number of town meeting members of any precinct from any cause other than the failure of the registered voters thereof to elect, said vacancy shall be filled, until the next annual election, by the Town Clerk, if there are available one or more candidates for the office of town meeting member of said precinct at the preceding Annual Town Election who failed of election but received not less than twenty (20) votes. In such event the Town Clerk shall choose the person who received the highest number of votes as such a defeated candidate in said precinct, notifying said person of his or her election as a town meeting member and securing his or her written acceptance thereof. If for any reason the person so chosen

**Failure of Acceptance**

cannot accept the office, the Town Clerk, shall in like manner choose and notify the defeated candidate in said precinct receiving the next highest number of votes, but no less than twenty (20), and so on until all vacancies are filled. The Town Clerk shall call a special meeting of the town meeting members of the precinct in which the vacancy or vacancies exist for the purpose of filling the vacancy or vacancies, until the next annual town meeting election, if at the preceding election: (a) no defeated candidate received at least twenty (20) votes; (b) the highest vote received by any defeated candidate was at least twenty (20) votes and such vote was a tie vote; or (c) there is no such defeated candidate who can or will accept the office. The special election shall be among those having the tie votes or, if no tie is involved, from among the registered voters of the precinct. The Town Clerk shall cause to be mailed to every such member, not less than fourteen days before the time set for the meeting, a notice specifying the object, time and place of the meeting. The procedures to be followed at said special meeting shall be the same as those prescribed for the special meeting provided for in Section Eight.

**Special Meeting**

**Special Election**

cannot accept the office, the Town Clerk, shall in like manner choose and notify the defeated candidate in said precinct receiving the next highest number of votes, but no less than twenty (20), and so on until all vacancies are filled. The Town Clerk shall call a special meeting of the town meeting members of the precinct in which the vacancy or vacancies exist for the purpose of filling the vacancy or vacancies, until the next annual town meeting election, if at the preceding election: (a) no defeated candidate received at least twenty (20) votes; (b) the highest vote received by any defeated candidate was at least twenty (20) votes and such vote was a tie vote; or (c) there is no such defeated candidate who can or will accept the office. The special election shall be among those having the tie votes or, if no tie is involved, from among the registered voters of the precinct. The Town Clerk shall cause to be mailed to every such member, not less than fourteen days before the time set for the meeting, a notice specifying the object, time and place of the meeting. The procedures to be followed at said special meeting shall be the same as those prescribed for the special meeting provided for in Section Eight.

**Votes, When  
Operative, Etc.**

SECTION 9. A vote passed at any representative town meeting authorizing the expenditure of one hundred thousand dollars or more for the acquisition of land, or for the construction, alteration or enlargement of any building, or for other than the usual departmental appropriations, or authorizing the incurring of debt, except temporary loans in anticipation of revenue or reimbursement from the commonwealth or the county of Norfolk, or establishing a new board or office or abolishing an old board or office or merging two or more boards or offices, or fixing the term of office of town officers, where such term is optional, or increasing or reducing the number of members of a board, or adopting a new bylaw, or amending or repealing an existing bylaw, shall not be operative until after the expiration of seven days, exclusive of Sundays and holidays, from the dissolution of the meeting. If, within said seven days, a petition, signed by not less than five percent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed as hereinafter provided asking that the question or questions involved in such a vote be submitted to the registered voters of the town at large, its operation shall be further suspended and the Selectmen, after receiving the certificate of the registrars of voters as hereinafter provided shall call a special meeting not less than twenty-eight days nor more than forty five days after the certification by the registrars of voters hereinafter provided for the sole purpose of presenting to the registered voters at large the question or questions so involved.

**Referendum Filing, Etc.**

The petition shall be termed a referendum petition. It shall be filed in the office of the Town Clerk before five o'clock in the afternoon of the seventh day, exclusive of Sundays and holidays, after the dissolution of the meeting. If the seventh day falls on a Saturday, Sunday, or a holiday, the petition shall be filed before ten o'clock in the morning on the next business day. Signatures thereto need not be all on one paper but all such papers relating to one vote shall be fastened securely together and filed as one instrument with the endorsement thereon of the person or persons filing the same and the time of filing shall be immediately noted thereon by the Town Clerk. Immediately after the expiration of the time within which referendum petitions may be filed, the Town Clerk shall notify the registrars of voters, who shall examine any such petition seasonably filed, and within five days determine by what number of registered voters it is signed in conformity with the provisions of this section and what percentage that number is of the total number of registered voters of the town and certify their findings to the Selectmen, and at the same time send a copy of the same to the person or to one of the persons who filed the petition.

**Questions How Stated Upon Ballot, Etc.**

Each question so submitted shall be in the form of the following question, which shall be placed upon the official ballot: - - "Shall the town vote to approve the action of the representative town meeting whereby it was voted (brief description of the substance of the vote)?"

**Opening And Closing of Polls**

The polls at such special meeting shall be opened not later than seven o'clock in the morning and shall be closed not earlier than eight o'clock in the evening. All votes upon any questions so submitted shall be taken in the several precinct meetings by ballot, and the check list shall be used in the same manner as in the election of town officers. For the action of the representative town meeting to be null and void the following two conditions must be satisfied: 1) at least twenty percent of all registered voters in the town must vote in the negative on the referendum; and 2) a majority of those who vote on the referendum must vote in the negative. Otherwise, the action of the representative town meeting shall take effect immediately upon the declaration by the Selectmen of the vote upon the referendum.

**Negative Vote**

**Affirmative Vote**

**Vote, When Operative, if No Petition Filed**

**Powers of Town And Its Meeting Members, Etc.**

SECTION 10. The town of Wellesley, after the acceptance of this chapter, shall have the capacity to act through and to be bound by its town meeting members ,who shall, when convened from time to time as herein provided, constitute representative town meetings; and the representative town meetings shall exercise exclusively, so far as will conform to the provisions of this act, all powers vested in the municipal corporation. Action in conformity with all provisions of law now or hereafter applicable to the transaction of town affairs in town meeting, shall, when taken by any representative town meeting in accordance with the provisions of this act, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as organized and conducted before the establishment in said town of representative town meeting government.

**Certain Rights Not Abridged, Etc.**

Section 11. This act shall not abridge the right of the inhabitants of the town to hold general meetings, as secured to them by the constitution of this commonwealth; nor shall this act confer upon any representative town meeting in said Town the power finally to commit the town to any measure affecting its municipal existence or substantially changing its form of government without action thereon by the voters of the town at large, using the ballot and the check list therefor.

**Submission to Voters of Town Of Wellesley, etc.**

Section 12. This act shall be submitted to the registered voters of the Town of Wellesley for acceptance at its annual town election in the year nineteen hundred and thirty-three. The vote shall be taken by ballot in accordance with the provisions of the general laws, so far as the same shall be applicable, in answer to the question, which

shall be placed upon the official ballot to be used in the several precincts in said town at said election: "Shall an act passed by the general court in the year nineteen hundred and thirty-two, entitled 'An Act Establishing in the Town of Wellesley Representative Town Government by Limited Town Meetings', be accepted by this town?" If accepted by a majority of the voters voting thereon, this act shall thereupon take effect for all purposes incidental to the annual town election in said town in the year nineteen hundred and thirty-four, and shall take full effect beginning with said election.

**Resubmission After  
Rejection, Etc.**

Section 13. If this act is rejected by the registered voters of said town when submitted to said voters under Section Twelve, it may be submitted for acceptance in like manner to such voters at any annual town election in said town not later than the annual town election in the year nineteen hundred and thirty-six, and, if accepted by a majority of the voters voting thereon at such an election, shall thereupon take effect for all purposes incidental to the next annual town election in said town, and shall take effect beginning with said election.

Approved May 4, 1932

Accepted Town Meeting, March 2, 1936

Amended, 1936, 1938, 1958, 1975, 1978, 1988

**SCHEDULE A—TO BE UPDATED ANNUALLY AT ATM**